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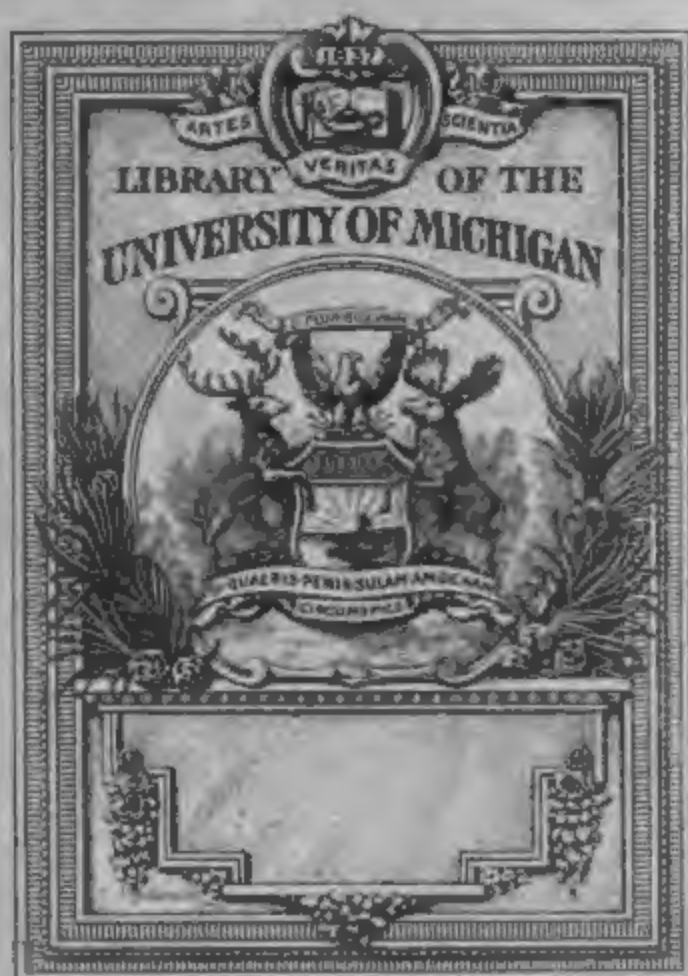


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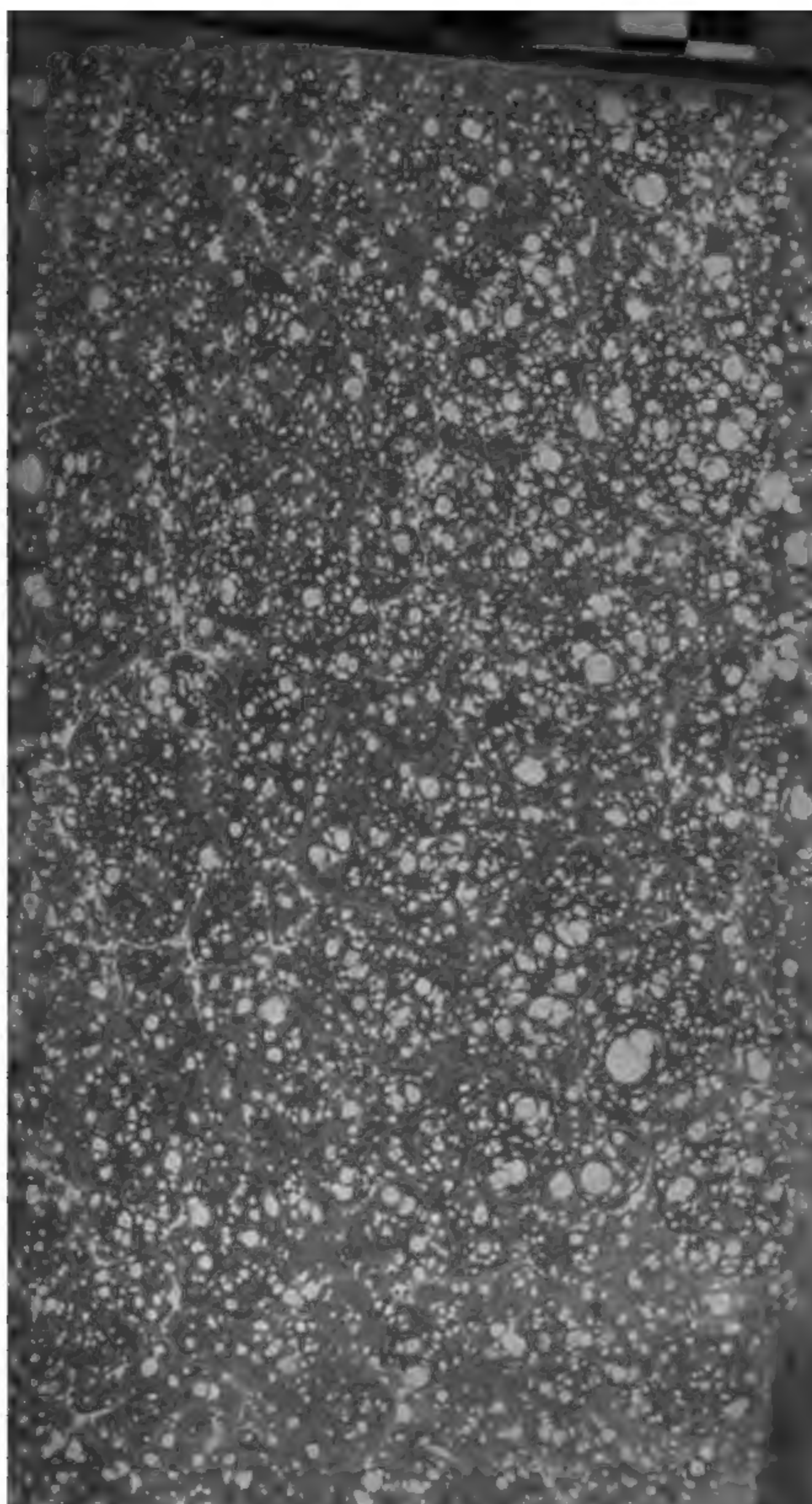
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**PROCEEDINGS AND DEBATES**

*Constitutional Convention, 1837-1838*  
**OF THE**

**CONVENTION**

**OF THE COMMONWEALTH OF PENNSYLVANIA,**

**TO PROPOSE**

**AMENDMENTS TO THE CONSTITUTION,**

**COMMENCED AND HELD AT HARRISBURG,**

**ON THE SECOND DAY OF MAY, 1837.**

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***Reported by* JOHN AGG ;**

**STENOGRAPHER TO THE CONVENTION ;**

***Assisted by* Messrs. Kingman, Drake, and McKimley ;**

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**VOL. I**

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**PRINTED BY PACKER, BARRETT, AND PARKER;  
Legislative Office, Harrisburg ;  
1837.**



### **ERRATA.**

- Page 54—line 39, for “Penlore” read “Codorus”.**  
**Page 64—lines 9 and 10, for “Dick Bang” read “Jenny Bang”**  
**Page 113—line 33, for “we” read “are”.**  
**Page 215—line 7, for “CHAMBERS” read DUNLOR”.**  
**Page 215—second line from bottom, for “that” read “at”**  
**Page 293—line 5, for “Warren” read “M’Kean”.**  
**Page 397—last line, for “Greene” read “Fayette”.**  
**Page 433—line 4, for “President” read “Chair”.**  
**Page 471—line 10 from bottom, for “article” read “section”.**

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The time and manner in which the sense of the people of the Commonwealth, should be taken on the subject of holding a Convention, are prescribed in the following act. viz :

**AN ACT TO PROVIDE FOR CALLING A CONVENTION WITH LIMITED POWERS.**

**SECTION 1.** *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That for the purpose of ascertaining the sense of the citizens of this Commonwealth, on the expediency of calling a Convention of delegates, to be elected by the people, with authority to submit amendments of the State Constitution to a vote of the people, for their ratification or rejection, and with no other or greater powers whatsoever ; it shall be the duty of each of the inspectors of votes for the several townships, wards and districts, in this Commonwealth, at the next general election, to receive tickets, either written or printed, from the citizens thereof, qualified to vote at such general election, and to deposit them in a proper box or boxes, to be for that purpose provided by the proper officers, which tickets shall be labelled on the outside with the word "CONVENTION" ; and those who are favorable to a Convention, to be elected as aforesaid, with limited powers, as aforesaid, may express their desire by voting, each, one written or printed ticket, or ballot, containing the words "For a Convention, to submit its proceedings to a vote of the people" ; and those who are opposed to such Convention, may express their opposition by voting, each, one printed or written ticket, or ballot, containing the words "Against a Convention" ; and all tickets containing the words "for a Convention", and all containing the words "against a Convention", shall be counted and returned, whether other words be, or be not added.

**SECT. 2.** The said election shall, in all respects, be conducted as the general elections of this Commonwealth are now conducted, and it shall be the duty of the return judges of the respective counties thereof, first having carefully ascertained the number of votes given for or against calling of a Convention, in the manner aforesaid, to make out duplicate returns thereof, expressed in words, at length, and not in figures, only one of which returns so made out, shall be lodged in the Prothonotary's office of the proper county, and the other sealed and directed to the Speaker of the Senate, which shall be, by one of the said judges, delivered to the Sheriff, with the other returns required by law to be transmitted to the Secretary of the Commonwealth, whose duty it shall be to transmit the same therewith ; and the Speaker of the Senate shall open and publish the same, in the presence of the members of the two Houses of the Legislature, on the second Tuesday of December next.

**SECT. 3.** It shall be the duty of the Secretary of the Commonwealth, to transmit a copy of this act to the Commissioners of each county in the State, who, on receipt of the same, shall publish it, at the expense of the county, at least once a week, for six successive weeks, in two or more newspapers, printed in the said county ; and the sheriff of each county, in the proclamation to be by him published of the holding of the next general election, shall give notice, that votes will be given for or against the calling of a Convention as aforesaid.

**JAMES THOMPSON,**

Speaker of the House of Representatives.

**THOMAS S. CUNNINGHAM,**

Speaker of the Senate.

**APPROVED—**The fourteenth day of April, one thousand eight hundred and thirty-five.

**GEO. WOLF.**



Under the provisions of the preceding act, the votes of the people were taken, at the time, and in the manner prescribed, by the act, the votes were returned to the Secretary of the Commonwealth, and transmitted by him to the Speaker of the Senate; and, on the second Tuesday of December thereafter, the following was published as the returns of the election:

### VOTES FOR A CONVENTION AND AGAINST A CONVENTION.

COUNTIES.	For a Convention.	Against a Convention.	COUNTIES.	For a Convention.	Against a Convention.
Adams,	646	1,894	Lycoming,	1,449	751
Allegheny,	4,671	487	M'Kean,	310	4
Armstrong,	2,164	484	Mercer,	2,464	344
Beaver,	2,529	88	Mifflin,	574	677
Bedford,	975	1,749	Montgomery,	1,535	3,162
Berks,	2,380	5,568	Northampton,	967	2,875
Bradford,	2,842	68	Northumberland,	655	1,791
Bucks,	2,538	3,330	Perry,	955	1,126
Butler,	1,780	541	Philadelphia,	7,883	10,442
Cambria,	737	573	Pike,	639	42
Centre,	530	2,341	Potter,	255	2
Chester,	2,546	3,308	Schuylkill,	886	1,357
Columbia,	1,308	795	Somerset,	251	1,217
Clearfield,	723	115	Susquehanna,	1,988	39
Crawford,	2,367	61	Tioga,	1,385	14
Cumberland,	2,264	1,965	Union,	602	1,994
Dauphin,	1,104	1,629	Venango,	1,616	55
Delaware,	932	1,031	Warren,	748	3
Erie,	3,023	21	Washington,	3,692	377
Fayette,	2,755	108	Wayne,	788	73
Franklin,	1,523	2,791	Westmoreland,	3,651	881
Greene,	2,053	69	York,	223	3,238
Huntingdon,	2,562	1,325		<hr/>	<hr/>
Indiana,	1,452	471		86,570	73,166
Jefferson,	404	23		73,166	
Juniata,	605	839		<hr/>	
Lancaster,	943	7,008	Majority in favor		
Lebanon,	437	2,032	of a call of a		
Lehigh,	905	1,943	Convention,	13,404	
Luzerne,	3,356	310		<hr/>	

The returns of the election having shewn the sense of the majority of the votes given to be in favor of calling a Convention, the Legislature of the Commonwealth passed the following act, viz :

### AN ACT PROVIDING FOR THE CALL OF A CONVENTION, TO PROPOSE AMENDMENTS TO THE CONSTITUTION OF THE STATE, TO BE SUBMITTED TO THE PEOPLE THEREOF, FOR THEIR RATIFICATION OR REJECTION.

WHEREAS, in pursuance of an act, passed on the fourteenth day of April, one thousand eight hundred and thirty-five, the freemen of this Commonwealth have, by a decided majority, determined that a Convention shall be holden, to propose and submit for their ratification or rejection, a new State Constitution : *And whereas*, it is incumbent on the representatives of the people, promptly, and without delay, to provide the means of carrying the public will into immediate effect : Therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same*, That an election shall take place in the several election districts of this Commonwealth, on the first Friday in November next, for the choice of delegates to a Convention, to submit amendments to the Constitution of this State, to a vote of the people thereof, and that the said Convention shall consist of a number equal to the members composing the Senate and House of Representatives of this Commonwealth.

SECT. 2. The delegates to the Convention shall be apportioned in the same manner

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that members of the Senate and House of Representatives shall then be by law apportioned.

**SECT. 3.** For the purpose of electing the aforesaid delegates, polls shall be opened on the said first Friday of November next, in the different election districts of the State, in the manner directed for the holding of the general elections of this Commonwealth; and it shall be the duty of the inspectors, judges, and clerks, of the last preceding general election, to attend at the usual hour and place of holding elections, in the different election districts aforesaid, on the said first Friday of November next, to receive tickets, either written or printed, from the citizens thereof qualified to vote at the general elections, and to deposite them in a proper box or boxes, to be for the purpose provided by the proper officers, which tickets shall be labelled on the outside with the word "Delegates"; and that the said election shall, in all other respects, be conducted, and returns made and transmitted, as in cases of elections for Senators and Representatives to the General Assembly; and the return judges of said election shall give notice to the persons elected delegates to said Convention, in the same manner that is provided for giving notice to persons elected to the Senate and House of Representatives of this Commonwealth, by the sixteenth section of an act of the fifteenth February, seventeen hundred and ninety-nine, entitled "An act to regulate the general elections within this Commonwealth".

**SECT. 4.** In the event of the absence of any of the said inspectors, judges, or clerks, such vacancies shall be filled by the election or appointment, as the case may be, of other persons, to act as inspectors, judges, or clerks, in the manner provided by the general election laws of this Commonwealth.

**SECT. 5.** It shall be the duty of the Secretary of the Commonwealth, on receiving the returns of the elections held on the said first Friday in November next, for delegates to the said Convention, from the respective sheriffs, to submit the same to the Governor, who, upon summing up and ascertaining the number of votes given, for each and every person so returned as voted for as delegate, shall thereupon declare, by proclamation, the names of the persons duly chosen and elected delegates to the Convention.

**SECT. 6.** It shall be the duty of the delegates elected as aforesaid, to assemble at the State Capitol, at Harrisburg, on the first Tuesday of May, eighteen hundred and thirty-seven, and organize by electing a president, and in case of the death or resignation of any of the members of said Convention, the president thereof shall issue his writs of election, directed to the Sheriff of the proper county, directing an election to be held to fill such vacancy or vacancies, in the same manner that is provided for supplying vacancies in the Senate and House of Representatives, and after the said Convention shall have so organized, from whence they may, if they think proper, adjourn to any other place, and proceed to the execution of the duties assigned them; and when the amendments shall have been agreed upon by the Convention, the Constitution, as amended, shall be engrossed and signed by the officers and members thereof, and delivered to the Secretary of the Commonwealth, by whom, and under whose direction, it shall be entered of record in his office, and be printed as soon as practicable, once a week in at least two newspapers published in each county in which two or more newspapers are printed, and in all the papers in each county where not more than two are printed, and in at least six newspapers in the city of Philadelphia: *Provided*, That in each county in which there is a German paper printed, said paper shall be selected by the Secretary, as one of the papers in which the amended Constitution is to be printed, until the day of the election that shall be held for the adoption or rejection of the amendments submitted.

**SECT. 7.** No delegate shall be elected to represent any other district than that in which he shall have resided for one whole year next preceding the election.

**SECT. 8.** For the purpose of ascertaining the sense of the citizens, on the expediency of adopting the amendments so agreed upon by the Convention, it shall be lawful for said Convention to issue a writ of election, directed to the Sheriff of each and every county of this Commonwealth, commanding notice to be given of the time and manner of holding an election for the said purpose, and it shall be the duty of the said sheriffs, respectively, to give notice accordingly; and if said election shall not be held on the day of holding the general election, it shall be the duty of the judges, inspectors, and clerks, of the last preceding general election, in each of the townships, wards, and districts, of this Commonwealth, to hold an election in obedience to the directions of the said Convention, in each of the said townships, wards, and districts, at the usual place or places of holding the general elections therein, and it shall also be the duty of the said judges



and inspectors, to receive at the said election, tickets, either written or printed, from citizens qualified to vote, and to deposit them in a box or boxes, to be for that purpose provided by the proper officers, which tickets shall be labelled on the outside - "Amendments", and those who are in favor of the amendments, may express their desire by voting each a printed or written ticket or ballot, containing the words - "For the amendments", and those who are opposed to such amendments, may express their opposition by voting each a printed or written ticket or ballot, containing the words - "Against the amendments"; and a majority of the whole number of votes thus given for or against the amendments, when ascertained, in the manner herein after directed, shall decide whether said amendments are or are not thereafter to be taken as a part of the Constitution of this Commonwealth: *Provided* however, That if the said Convention shall declare it to be most expedient to submit the amendments to the people in distinct and separate propositions, it shall be the duty of the said judges, inspectors, and clerks, to receive ballots prepared accordingly, or in any way which said Convention may direct.

**SECT. 9.** The duty of the said judges and inspectors shall in all respects, be considered as the general elections of this Commonwealth are now conducted, and it shall be the duty of the said judges, of the respective counties thereof, first having carefully ascertained the number of votes given for or against the said amendments, in the manner as aforesaid, to make out duplicate returns thereof expressed in words at length, and not in figures only, one of which returns so made, shall be lodged in the Prothonary's office of the proper county, and the other sealed and directed to the Secretary of the Commonwealth, which shall be by one of the said judges delivered to the sheriff with the other returns required by law, to be delivered to the Secretary of the Commonwealth.

**SECT. 10.** It shall further be the duty of the Secretary of the Commonwealth, on receiving the returns of the election for and against the amendments proposed by the Convention, to deliver the same to the Speaker of the Senate, on or before the first Thursday of the next session of the Legislature, after said returns shall so be received, who shall open and publish the same, in the presence of the members of the Senate and House of Representatives, on the next Tuesday thereafter; and when the number of votes given for, and the number of votes given against the said amendments shall have been summed up and ascertained, duplicate certificates thereof shall be signed by the Speaker of the Senate, one of which shall be filed in the office of the Secretary of the Commonwealth, and the other delivered to the Governor, whose duty it shall be to declare, by proclamation, whether the said amendments have been, or have not been adopted by the freemen of this Commonwealth.

**SECT. 11.** The delegates to the said Convention shall be entitled to the same pay and mileage to which members of the General Assembly are now entitled, which, together with the pay of a competent Stenographer, to report the debates of the said Convention, and the contingent expenses of the Convention, shall be paid by the State Treasurer, on the warrant of the presiding officer of the Convention; and it shall be the duty of all officers of this State, and of the State Librarian, to furnish the said Convention with such books and papers in their possession, as the said Convention may deem necessary.

**SECT. 12.** Immediately after the final passage of this act, it shall be the duty of the Secretary of the Commonwealth, to furnish the sheriff of each respective county in the State with a copy of said act, requiring him to issue his proclamation, to be inserted in at least two newspapers published in each county, in which two or more newspapers are printed, and in all the papers in each county where not more than two are printed, once a week for four successive weeks previous to the first Friday in November next, directing the inspectors, judges, and clerks, of the preceding general election, to attend at the proper times and places, and perform the duties imposed upon them by the third section of this act, and stating the object of said election, and the number of delegates to be chosen in said county, and the said inspectors, judges, and clerks, shall receive the like compensation for any special election, to be paid them in like manner, as is provided by law for holding general elections.

NER MIDDLESWARTH,

Speaker of the House of Representatives.

THOMAS S. CUNNINGHAM,

Speaker of the Senate.

**APPROVED**—The twenty-ninth day of March, Anno Domini, one thousand eight hundred and thirty-six.

JOS. BITNER.







**PROCEEDINGS AND DEBATES**  
**OF THE**  
**CONVENTION HELD AT HARRISBURG.**

TUESDAY, MAY 2, 1837.

A quorum of delegates having assembled in the Hall of the House of Representatives, in pursuance of an act of the General Assembly of the Commonwealth of Pennsylvania, entitled "An act providing for the call of a Convention to propose amendments to the Constitution of this State, to be submitted to the people thereof, for their ratification or rejection", passed the 29th of March, 1836, at 12 o'clock,

Mr. CLARKE, of Indiana, rose and said: This being the day named in the act of the Legislature providing for the assembling of the Convention to propose amendments to the Constitution of this State, I move that the Convention now come to order, and that Gen. HENRY SCHEETZ be appointed to the chair, for the purpose of organizing the Convention.

Mr. M'SHERRY, of Adams, moved that Gen. THOMAS S. CUNNINGHAM be appointed to the chair.

On motion of STEVENS, of Adams, it was

*Ordered*, That tellers be appointed for the purpose of ascertaining which of the gentlemen named should take the chair.

Mr. BANKS, of Mifflin, nominated Mr. ROGERS, of Allegheny.

Mr. MERRILL, of Union, nominated Mr. CLARK, of Dauphin; and these gentlemen were declared the tellers.

The delegates then proceeded to the election of a President *pro tem*, when there appeared

For Gen. THOMAS S. CUNNINGHAM,	- - -	66
For Gen. HENRY SCHEETZ,	- - -	64

Gen. SCHEETZ voted for Mr. CLARKE.

Mr. CUNNINGHAM was excused from voting.

Mr. M'SHERRY, of Adams, then moved that J. C. BIDDLE, and CHARLES A. BARNITZ, be appointed Secretaries, *pro tem*.

Mr. BROWN, of Philadelphia, thought this motion premature, until it should be ascertained whether Gen. CUNNINGHAM was duly elected: As that gentleman had not received a majority of the votes of the members present, it seemed to him that he was not duly elected; at any rate, he hoped the question would be decided before any other motion was made.

Mr. BIDDLE, of Philadelphia, understood the report of the tellers to be for Gen. SCHEETZ 64 ; for Gen. CUNNINGHAM, 66 ; scattering 1, and one gentleman did not vote ; consequently, Gen. CUNNINGHAM was elected, having received a majority of all the votes given.

Mr. BROWN, of Philadelphia, remarked that if it was to be understood that Gen. CUNNINGHAM was not present, he was elected ; but on the contrary, if he was present, and he presumed his having asked to be excused from voting must be taken as evidence of his presence, then he was not elected by a majority of the members present.

Mr. STERIGERE considered that Mr. CUNNINGHAM was duly elected, and moved that he take the chair.

Mr. BROWN, of Philadelphia, inquired if any gentleman had the law providing for the call of the Convention.

Mr. STEVENS, of Adams, then read the law ; but there appeared to be no provision to meet the case at issue.

Mr. CLARKE, of Indiana, said, according to his understanding of the question, he considered Mr. CUNNINGHAM duly elected, and thought, therefore, he ought to take the chair.

Mr. STERIGERE then put the question whether Mr. CUNNINGHAM should take the chair, which was carried without a division.

Mr. M'SHERRY, of Adams, moved that J. C. BIDDLE, of Philadelphia, and C. A. BARNITZ, of York, act as Secretaries *pro tem*.

Mr. BANKS, of Mifflin, moved that J. Y. BARCLAY, of Westmoreland, and T. EARLE, of the county of Philadelphia, act as Secretaries *pro tem*.

On the question being taken, Mr. BIDDLE and Mr. BARNITZ having received a majority of the votes present, were declared duly elected Secretaries *pro tem*.

The Secretary of the Commonwealth appeared, and presented a certified copy of the proclamation of the Governor containing a list of the delegates elected to this convention, as follows :

#### SENATORIAL DELEGATES.

*Philadelphia city*—JOHN SERGEANT, CHARLES CHAUNCEY. *Philadelphia county*—GEORGE W. RITER, CHARLES J. INGERSOLL, ABRAHAM HELFFENSTEIN. *Chester, Delaware and Montgomery*—THOMAS S. BELL, DAVID LYONS, HENRY SCHEETZ. *Bucks*—E. T. M'DOWELL. *Berks*—JOHN RITTER. *Lancaster and York*—WILLIAM HIESTER, CHARLES A. BARNITZ, JAMES PORTER. *Dauphin and Lebanon*—JACOB B. WEIDMAN. *Perry, Mifflin, Juniata, Union and Huntingdon*—JAMES MERRILL, WILLIAM P. MACLAY. *Columbia and Schuylkill*—GEORGE SMITH. *Lehigh and Northampton*—WILLIAM BROWN. *Luzerne, Monroe, Wayne and Pike*—GEORGE W. WOODWARD. *Lycoming, Centre and Northumberland*—ROBERT FLEMING. *Bradford and Susquehanna*—ALMON H. READ. *Franklin, Cumberland and Adams*—JAMES DUNLOP, LEVI MERKEL. *Bedford and Somerset*—JAMES M. RUSSELL. *Westmoreland*—JOHN Y. BARCLAY. *Washington*—JOSHUA DICKERSON. *Fayette and Greene*—JOHN FULLER. *Allegheny and Butler*—HARMAR DENNY, WILLIAM AYRES. *Beaver and Mercer*—JOHN CLARKE. *Crawford and Erie*—DANIEL SAEGER. *Jefferson, McKean, Potter, Tioga, Warren and Venango*—ORLO J. HAMLIN. *Indiana, Armstrong, Cambria and Clearfield*—JAMES CLARKE.

## REPRESENTATIVE DELEGATES.

*Adams*—JAMES M'SHERRY, THADDEUS STEVENS. *Allegheny*—MATTHEW HENDERSON, ANDREW BAYNE, WALTER FORWARD, H. GOLD ROGERS. *Armstrong*—WILLIAM CURLL. *Bedford*—ANDREW J. CLINE, JACOB BARNDOLLAR. *Berks*—GEORGE M. KEIM, JAMES DONAGAN, WILLIAM HIGH, MARK DARRAH. *Beaver*—JOHN DICKEY, DANIEL AGNEW. *Bradford*—NATHANIEL CLAPP. *Bucks*—JOHN HOUP, SAMUEL CAREY, PHINEAS JENKS. *Butler*—SAMUEL A. PURVIANCE. *Centre*—WILLIAM SMYTH. *Chester*—WILLIAM DARLINGTON, MORGAN J. THOMAS, MATTHIAS PENNYPACKER, JOHN CHANDLER. *Columbia*—EZRA S. HAYHURST. *Crawford*—DAVID M. FARRELLY, GEORGE SHELLITO. *Cumberland*—RICHARD M. CRAIN, DAVID NEVIN. *Delaware*—GEORGE SERRILL. *Dauphin*—WILLIAM HENDERSON, WILLIAM CLARK. *Erie*—JAMES POLLOCK, THOMAS H. SILL. *Fayette*—WILLIAM L. MILLER, DAVID GILMORE. *Franklin*—GEORGE CHAMBERS, JOSEPH SNIVELY. *Greene*—SAMUEL CLEAVINGER. *Huntingdon*—SAMUEL ROYER, CORNELIUS CRUM. *Indiana*—JAMES TODD. *Jefferson, Warren and McKean*—THOMAS HASTINGS. *Lancaster*—JEREMIAH BROWN, LINDLEY COATES, RICHARD E. COCHRAN, JOSEPH KONIGMACHER, HENRY G. LONG, EMANUEL C. REIGART. *Lebanon*—GEORGE SELTZER. *Lehigh*—JACOB DILLINGER, JOSEPH FRY, JR. *Luzerne*—WILLIAM SWETLAND, ANDREW BEDFORD. *Lycoming and Clearfield*—JOHN A. GAMELE, THOMAS TAGGART. *Mercer*—THOMAS S. CUNNINGHAM, JAMES MONTGOMERY. *Montgomery*—JOHN B. STERIGERE, JOEL K. MANN, TOBIAS SELLERS. *Northumberland*—WILLIAM GEARHART. *Northampton and Monroe*—JAMES M. PORTER, WILLIAM OVERFIELD, JAMES KENNEDY. *Perry*—ALEXANDER MAGEE. *Philadelphia city*—THOMAS P. COPE, WILLIAM M. MEREDITH, JOHN M. SCOTT, JAMES C. BIDDLE, JOSEPH R. CHANDLER, MATTHIAS W. BALDWIN, JOSEPH HOPKINSON. *Philadelphia county*—CHARLES BROWN, JOSEPH M. DORAN, THOMAS WEAVER, JOHN J. M'CAHEN, JOHN FOULKROD, PIERCE BUTLER, BENJAMIN MARTIN, THOMAS EARLE. *Somerset and Cambria*—ROBERT YOUNG, JOSHUA F. COX. *Schuylkill*—JACOB KREBS. *Susquehanna*—JABEZ HYDE. *Tioga and Potter*—ROBERT G. WHITE. *Union, Mifflin and Juniata*—WILLIAM L. HARRIS, EPHRAIM BANKS, JOHN CUMMIN. *Venango*—CHRISTIAN MYERS. *Washington*—THOMAS M'CALL, WALTER CRAIG, AARON KERR. *Wayne and Pike*—VIRGIL GRENNELL. *Westmoreland*—GEORGE T. CRAWFORD, LEBBEUS L. BIGELOW. *York*—JOHN R. DONNELL, JACOB STICKEL, SAMUEL C. BONHAM.

The delegates were all present, with the exception of T. HASTINGS, of Jefferson.

Mr. HOPKINSON, of Philadelphia city, moved that the delegates present proceed to the election of a President.

Mr. EARLE, of Philadelphia, moved to postpone the further consideration of the motion, and that a committee be appointed to report what officers should be elected by the Convention.

Mr. CHANDLER, of Chester, called for a division of the question, and the question being taken on the first member of the motion, it was decided in the negative, after a brief discussion in which Mr. STEVENS, of Adams, Mr. MARTIN, of Philadelphia, and Mr. BELL, of Chester, participated.

Mr. BELL, of Chester, moved that the rules of the House of Repre-

sentatives be adopted for the government of the meeting, until otherwise ordered; which was decided in the negative.

Mr. DORAN, of Philadelphia, moved that the election for President be by ballot.

Mr. STEVENS, of Adams, moved to amend the motion, by striking out the words "by ballot", and inserting, in lieu thereof, the words "*viva voce*", and this amendment being agreed to, the motion, as amended, was adopted.

Mr. M'SHERRY, of Adams, then nominated JOHN SERGEANT, of Philadelphia, to be President of the Convention.

Mr. DILLINGER, of Lehigh, nominated JAMES M. PORTER, of Northampton, for the office of President.

The delegates present then proceeded to the election of a President, and the votes were taken as follows:

For JOHN SERGEANT—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Bayne, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickerson, Dickey, Dunlop, Forward, Harris, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Hout, Jenks, Kerr, Konigmacher, Long, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Stevens, Thomas, Todd, Weidman, Young.—66.

For JAMES M. PORTER—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Hayhurst, Helffenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Myers, Nevin, Overfield, Read, Riter, Ritter, Rogers, Sellers, Scheetz, Shellito, Smith, Smyth, Stickel, Swetland, Taggart, Weaver, White, Woodward.—63.

For JAMES CLARKE, Mr. Porter, of Northampton, - - - - 1

For ALMON H. READ, Mr. Sterigere. - - - - 1

JOHN SERGEANT, having received a majority of the whole number of votes present, was declared duly elected President of the Convention, and was conducted to the chair by Mr. PORTER, of Northampton. After having taken the chair, the President addressed the Convention as follows:

"GENTLEMEN, *Delegates to this Convention*: The station you have called me to by your election, is one which, in this Commonwealth, and elsewhere in our country, has been occupied by the most eminent citizens. However unworthy I must feel myself, to be associated with the illustrious names which form the roll of Presidents of Conventions, it cannot but be felt as a high honour to have a place in the same list with them. It is deeply felt to be so, and I beg you to accept for it my most sincere acknowledgments.

"The subjects we are to deliberate upon, are of no ordinary character. It is not an exaggeration to say, that they are of transcendent importance. The Commonwealth of Pennsylvania was one of the first, if not the very first, to imitate the example of the whole people of the United States, in taking down the fabric of government which had been provided amidst the exigencies of a new and disturbed state of existence, and in replacing it by a solid structure, deliberately formed, and intended to give permanent se-



curity to all the rights of every member of the community. At the end of almost fifty years, the system of social order which was then framed, is committed to our hands, that we may examine it, and, if need be, propose to our fellow citizens such improvements as this great fundamental law may seem to require. Such a work, it must be acknowledged, demands the utmost exertion of wisdom—exemption, as far as possible, from the influence of prejudice and passion, and every disturbing motive—and, withal, a spirit of pure and generous patriotism, which seeks no other gratification than to promote the lasting happiness of those who are, and those who are to be, the inhabitants of this great and favoured Commonwealth.

“A constant sense of the magnitude of the duty we are called to perform, and of the grave accountability we are under for its faithful performance, cannot fail to produce calmness and order in our deliberations; while at the same time, a becoming seriousness, with mutual kindness and respect, will be an earnest to our fellow citizens of the singleness of purpose with which we follow the path of that great duty, and, with the blessing of a gracious Providence upon our counsels, the best means of accomplishing good results.

“To the utmost of my humble powers, I promise to co-operate with you in whatever will tend to give character and efficacy to our proceedings. With but little aid from experience, I am very sensible of my deficiencies, and how much I stand in need of your continual indulgence and support. My hope, and my belief are that they will be liberally extended to unintentional error; and further than this, you may be assured there will be no claim.

“Pardon me for detaining you a moment longer, to express to you my heartfelt wish that all who are here assembled may, to the last day of their lives, have cause to rejoice in the acts of this Convention, with a firm conviction that they have done nothing to weaken the foundations of human freedom and happiness.”

On motion of Mr. HIESTER, it was

*Resolved*, That when this Convention adjourns, it will adjourn to meet again to-morrow morning at 10 o'clock, and that the hour of meeting daily be 10 o'clock, A. M. until otherwise ordered.

The Convention then adjourned.

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### WEDNESDAY, MAY 3, 1837.

The PRESIDENT laid before the Convention the following communications which were ordered to be laid on the table.

From FRANCIS R. SHUNK, SAMUEL SHOCK and JOHN K. ZEILIN, requesting the appointment of Secretary of the Convention; and from DANIEL ECKLES, requesting to be appointed Doorkeeper: also from JOSEPH BLACK, and JAMES E. MITCHELL, requesting the appointment of Sergeant-at-Arms.

From SAMUEL D. PATTERSON and EMANUEL GUYER, requesting to be appointed Printer of the English journals of the Convention; and from Messrs. BAAB & RITTER, requesting to be appointed Printers of the journals in the German language.

From Messrs. PACKER, BARRETT & PARKE, requesting to be appointed Printers of the debates of the Convention in the English language ; and from EMANUEL GUYER, requesting to be appointed Printer of the debates in the German language.

On motion of Mr. STERIGERE, of Montgomery, it was

*Ordered*, That when the Secretary or Secretaries shall be appointed, they make the journal of this Convention, from the assembling thereof to the present time, conform to the usual order of journals, under the direction of the President.

Mr. STERIGERE, of Montgomery, submitted the following resolution :

*Resolved*, That the Convention proceed to elect, *viva voce*, the following officers, viz: Two Secretaries, one Sergeant-at-Arms, one assistant Sergeant-at-Arms, one Doorkeeper, and one assistant Doorkeeper, one Stenographer, and one assistant Stenographer ; and that the said Secretaries shall be authorised to employ, with the approbation of the President of the Convention, such transcribing clerks as shall be found necessary for the transaction of the business of the Convention.

Mr. PORTER, of Northampton, moved to amend the resolution by striking therefrom all after the word "*Resolved*", and inserting, in lieu thereof the following : " That it is expedient to elect, as officers of this Convention, one Secretary, and one assistant Secretary ; one Sergeant-at-Arms, and one assistant Sergeant-at-Arms ; one Doorkeeper, and one assistant Doorkeeper ; one Stenographer, and one assistant Stenographer ; and that the said Secretaries shall be authorised to employ, with the approbation of the President of the Convention, such transcribing clerks as shall be found necessary for the transaction of the business of the Convention ; which motion was negatived.

Mr. DUNLOP, of Franklin, moved to amend the resolution, by striking therefrom all after "*Resolved*", and inserting, in lieu thereof, as follows, viz: " That the Convention do now proceed to the election of a Secretary, who shall be authorised, with the approbation of the Convention, to appoint the necessary assistants.

Mr. STEVENS, of Adams, moved to amend the amendment, by striking from it, all after the word " Secretary"; which was agreed to.

Mr. BROWN, of Philadelphia, moved to amend the amendment by striking out the words " a Secretary", and inserting in lieu of it, the words " two Secretaries"; which was determined in the negative.

And the amendment, as amended, having been adopted, the resolution was agreed to.

Mr. DORAN, of Philadelphia, moved that the election of a Secretary be by ballot.

Mr. STEVENS, of Adams, moved to amend the motion by striking out the words " by ballot", and inserting the words "*viva voce*", and on this question the yeas and nays were demanded.

The question was then taken on the resolution to amend, and decided in the affirmative, as follows :

YEAS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Bayne, Bedford, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Gilmore, Harris, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Hout, Jenks, Kerr, Konigmacher, Long, Maclay, M'Call, M'Cahen, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royal, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Sterigere, Stevens, Thomas, Todd, Weidman, Young, Sergeant, *President*—71.

**NAMES**—Messrs. Banks, Barclay, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnel, Doran, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Grenell, Hamlin, Hayhurst, Helffenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, Miller, Myers, Nevin, Overfield, Porter, of Northampton, Read, Riter, Ritter, Rogers, Sellers, Scheetz, Shellito, Smith, Smyth, Stickel, Swetland, Taggart, Weaver, White, Woodward—61.

Mr STEVENS, of Adams, nominated SAMUEL SHOCH for the office of Secretary, and Mr. PORTER, of Northampton, nominated FRANCIS R. SHUNK.

The Convention then proceeded to the election, and the votes being taken, it appeared that the numbers were

For SAMUEL SHOCH, - - - - - 67

For FRANCIS R. SHUNK, - - - - - 65

SAMUEL SHOCH was therefore declared to be duly elected.

Mr. DORAN, of Philadelphia, submitted the following resolution :

*Resolved*, That the Convention proceed to the election of an additional secretary.

Mr. MERRILL, of Union, moved to amend the resolution, by striking out the word “additional”, and inserting in lieu of it the word “assistant”; which was decided in the negative.

Mr. STEVENS, of Adams, moved to amend the resolution by adding the following words : “and that the Secretaries, with the approbation of the President, be authorised to employ such assistants as may be necessary”, which was accepted by the mover as a modification of his resolution ; and the resolution thus modified, was agreed to.

Mr. BROWN, of Philadelphia, moved to postpone the election for the present, and that the fifth, sixth and eleventh sections of the act of Assembly, entitled “An act providing for the call of a Convention to propose amendments to the constitution of the State, to be submitted to the people thereof, for their ratification or rejection”, passed the twenty-ninth of March, one thousand eight hundred and thirty-six, be read and made part of the journal, which was agreed to.

The sections were then read as follows :

“SECT. 5. It shall be the duty of the Secretary of the Commonwealth, on receiving the returns of the elections held on the said first Friday in November next, for delegates to the said Convention, from the respective sheriffs, to submit the same to the Governor, who upon summing up and ascertaining the number of votes given, for each and every person so returned as voted for as delegate, shall thereupon declare, by proclamation, the names of the persons duly chosen and elected delegates to the Convention.

“SECT. 6. It shall be the duty of the delegates elected as aforesaid, to assemble at the State Capitol, at Harrisburg, on the first Tuesday of May, one thousand eight hundred and thirty-seven, and organize by electing a President, and in case of the death or resignation of any of the members of said convention, the President thereof shall issue his writs of election, directed to the sheriff of the proper county, directing an election to be held to fill such vacancy or vacancies, in the same manner that is provided for supplying vacancies in the Senate and House of Representatives, and after the said convention shall have so organized, from whence they may, if they think proper, adjourn to any other place, and proceed to the execution of the duties assigned them ; and when the amendments

shall have been agreed upon by the Convention, the Constitution as amended, shall be engrossed and signed by the officers and members thereof, and delivered to the Secretary of the Commonwealth, by whom, and under whose direction, it shall be entered of record in his office, and be printed as soon as practicable, once a week in at least two newspapers published in each county in which two or more newspapers are printed, and in all the papers in each county where not more than two are printed, and in at least six newspapers in the city of Philadelphia: *Provided*, That in each county in which there is a German paper printed, said paper shall be selected by the Secretary as one of the papers in which the amended Constitution is to be printed, until the day of the election that shall be held for the adoption or rejection of the amendments submitted.

“**SECT. 11.** The delegates to the said Convention shall be entitled to the same pay and mileage to which members of the General Assembly are now entitled, which, together with the pay of a competent Stenographer, to report the debates of the said convention, and the contingent expenses of the Convention, shall be paid by the State Treasurer, on the warrant of the presiding officer of the Convention; and it shall be the duty of all officers of this State, and of the State Librarian, to furnish the said Convention with such books and papers in their possession, as the said Convention may deem necessary.”

The Convention then proceeded on motion, to the election of an additional Secretary, when Mr. DORAN, of Philadelphia, nominated FRANCIS R. SHUNK, and Mr. M'SHERRY, nominated GEORGE L. FAUSS, and the votes being taken, the numbers were found to be as follows:

For FRANCIS R. SHUNK	-	-	-	-	-	66
For GEORGE L. FAUSS	-	-	-	-	-	66

There being no election, Mr. DUNLOP, of Franklin, submitted the following resolution:

*Resolved*, That FRANCIS R. SHUNK be an additional Secretary of the Convention, and if the President and Secretaries consent, that GEORGE L. FAUSS be the first assistant Secretary.

Mr. FORWARD, of Allegheny, moved to amend the resolution, by adding the words, “and that JOSEPH WILLIAMS be the second assistant Secretary”; which was agreed to.

Mr. STEVENS, of Adams, then moved to amend the resolution by adding the words, “and, if a third be needed, BENJAMIN FRANKLIN MANN”; which was decided in the negative.

Mr. CLARKE, of Indiana, moved to amend the resolution, by striking out the words; “if the President and Secretaries consent”; which was agreed to.

The yeas and nays having been required on the resolution, as amended, the question was taken, and decided in the affirmative, as follows:

**YEAS**—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Brown, of Philadelphia, Butler, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clarke, of Indiana, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crawford, Crum, Cummin, Cunningham, Curl, Darlington, Darrah, Dickey, Dillinger, Donagan, Donnell, Doran, Dunlop, Earle, Farrelly, Fleming, Forward, Foulkrod, Fry, Fuller, Gearhart, Gilmore, Grenell, Hamlin, Harris, Hayhurst, Helffenstein, Henderson, of Allegheny, High, Hopkinson, Houpt, Hyde, Jenks, Keim, Kennedy, Kerr, Krebs, Lyons, Macclay, Magee, Mann, Martin, M’-

**Cahen, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Miller, Montgomery, Myers, Nevin, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Read, Riter, Ritter, Rogers, Royer, Russel, Saeger, Scott, Sellers, Serrill, Scheetz, Shellito, Sill, Smith, Smyth, Snively, Sterigere, Stickel, Swetland, Taggart, Thomas, Todd, Weaver, Weidman, White, Woodward, Young, Sergeant, President.**—117.

**NAYS.**—Messrs. Clark, of Dauphin, Denny, Dickerson, Henderson, of Dauphin, Hiester, Ingersoll, Konigmacher, Long, M'Call, Overfield, Porter, of Northampton, Reigart, Seltzer, Stevens.—14.

**MR. CHAMBERS**, of Franklin, rose and remarked, that it was, in his opinion, becoming the representatives of the people assembled here to revise and amend the form of government for this Commonwealth, which is not for a party or parties, or for the present generation, but, as he hoped, for it and posterity, to daily testify their reverence for the Governor of the Universe, the Almighty Maker of heaven and earth, who can build up nations and destroy them.

It is proper that the divine blessing and guidance should be daily invoked in our behalf, in the discharge of our responsible trust; we need it, and if it will have the effect of impressing any of us with the importance of the trust we are now discharging, and with our responsibility, not only to the people whose delegates we are, but with a responsibility which cannot be evaded, to our Judge who is in heaven, and who is the righteous Judge of the living and the dead, we will have reason to be thankful. In doing this, which commends itself to us as a becoming duty, we have before us the precedents of other public bodies of like character, assembled in the states of New York and Virginia, and I trust that the members of a Pennsylvania Convention, will be as willing to testify their acknowledgment of an Almighty God, as well as of a religion which is at the foundation of our government and its obligations.

He concluded with submitting the following resolution :

*Resolved*, That the President of the Convention invite the clergy of the borough of Harrisburg, by an arrangement amongst themselves, to open the session of the Convention, each morning, by prayer.

**MR. CHANDLER**, of Chester, moved to postpone the further consideration of the resolution until to-morrow, and the yeas and nays being called, the motion to postpone was negatived, as follows :

**YEAS.**—Messrs. Brown, of Lancaster, Brown, of Philadelphia, Carey, Chandler, of Chester, Clarke, of Indiana, Darlington, Dunlop, Fleming, Foulkrod, Fry, Gilmore, Houpt, Keim, Martin, M'Cahen, M'Sherry, Montgomery, Serrill, Stevens, Thomas, Weaver—21.

**NAYS.**—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Northampton, Butler, Chambers, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Cline, Coates, Cochran, Cox, Craig, Crain, Crawford, Crum, Cummin, Cunningham, Curll, Darrah, Denny, Dickey, Dickerson, Dillinger, Donagan, Donnell, Doran, Farrelly, Forward, Fuller, Gamble, Gearhart, Grenell, Hamlin, Harris, Hayhurst, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Hyde, Ingersoll, Jenks, Kennedy, Kerr, Konigmacher, Krebs, Long, Lyons, Maclay, Magee, Mann, M'Call, M'Dowell, Meredith, Merrill, Merkel, Miller, Myers, Nevin, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Purviance, Reigart, Read, Riter, Ritter, Rogers, Royer, Russel, Saeger, Scott, Sellers, Seltzer, Scheetz, Shellito, Sill, Smith, Smyth, Snively, Sterigere, Stickel, Swetland, Taggart, Todd, Weidman, White, Woodward, Young, Sergeant, *President*—109.

The question was then taken on the resolution, and the yeas and nays being called, the resolution was adopted by the following vote :



**YEAS**—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Northampton, Brown, of Phil. Butler, Chambers, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Cochran, Cox, Craig, Crain, Crawford, Crum, Cummin, Cunningham, Curll, Darrah, Denny, Dickey, Dickerson, Dillinger, Donagan, Donnell, Doran, Dunlop, Farrelly, Forward, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Harris, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Hought, Hyde, Ingersoll, Jenks, Kennedy, Kerr, Konigmacher, Long, Lyons, Maclay, Magee, Mann, M'Call, Meredith, Merrill, Merkel, Miller, Montgomery, Myers, Nevin, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Purviance, Reigart, Read, Riter, Rogers, Royer, Russel, Saeger, Scott, Sellers, Seltzer, Scheetz, Shellito, Sill, Smith, Snyth, Snively, Sterigere, Stevens, Stickel, Swetland, Taggart, Todd, Weidman, White, Woodward, Young, Sergeant, *President*—110.

**NAYS**—Messrs. Brown, of Lancaster, Carey, Chandler, of Chester, Coates, Darlington, Fleming, Foulkrod, Hayhurst, High, Keim, Krebs, Martin, M'Cahen, M'Sherry, Ritter, Serrill, Thomas, Weaver—18.

Mr. PORTER, of Northampton, submitted the following resolution :

*Resolved*, That the Secretaries cause to be procured for the use of each member of this Convention, a copy of the proceedings relative to calling the Conventions of seventeen hundred and seventy-six and seventeen hundred and ninety : *Provided*, The cost of each copy shall not exceed one dollar and fifty cents, and that the amount be paid as part of the contingent expenses.

Mr. MERRILL, of Union, moved to amend the resolution by inserting after the word "member", the words "except those who have purchased for themselves, and that they hand in their names to the Secretary".

On motion of Mr. STEVENS, of Adams, the resolution and amendment were postponed until to-morrow.

On motion of Mr. STEVENS, of Adams, it was

*Ordered*, That when this Convention adjourns, it will adjourn to meet this afternoon at 4 o'clock, for the purpose of electing officers.

Mr. CUNNINGHAM, of Mercer, submitted the following resolution :

*Resolved*, That the Secretaries be directed to pay the postage on letters, documents, newspapers, and pamphlets sent and received by members and officers of the Convention, and that members and officers sending such documents and pamphlets, shall endorse the number of sheets enclosed, and their names respectively on the envelope thereof, and also their names respectively on the letters and newspapers sent, and that each delegate and officer of the Convention be furnished with four daily newspapers, or newspapers equivalent thereto, during the sitting of the Convention.

Mr. HIESTER, of Lancaster, moved to amend the resolution by striking out the word "four" and inserting in lieu thereof the word "three"; which motion was decided in the negative, and the resolution was then agreed to.

Mr. DUNLOP, of Franklin, submitted the following resolution, which was laid on the table :

*Resolved*, That the yeas and nays be not called in this Convention, unless the call be sustained by one fifth of the members present.

The Convention then adjourned.

### WEDNESDAY AFTERNOON, 4 O'CLOCK.

On motion of Mr. STEVENS, of Adams,

*Ordered*, That the names of the delegates be read by the Secretary.

The names of the delegates having been read,

Mr. DORAN, of Philadelphia, submitted the following resolution :

*Resolved*, That the Convention proceed to the election of two Sergeants-at-Arms.

On motion of Mr. STEVENS, of Adams, the resolution was amended by striking out the words "two Sergeants-at-Arms", and inserting the words "one Sergeant-at-Arms", and was then agreed to.

Mr. CLARK, of Dauphin, nominated CHARLES GLEIM: Mr. BROWN, of Philadelphia, nominated JOSEPH BLACK: and Mr. ROGERS, of Allegheny, nominated JAMES E. MITCHELL.

The Convention proceeded to the election, and, on counting the votes, the numbers appeared to be, for CHARLES GLEIM, 64; for JOSEPH BLACK, 28; and for JAMES E. MITCHELL, 37—neither having a majority of the whole, no election was made.

Mr. STEVENS, of Adams, moved that CHARLES GLEIM be the Sergeant-at-Arms.

Mr. DORAN moved to amend the motion by adding the words, "and that JOSEPH BLACK be assistant Sergeant-at-Arms".

On motion of Mr. STERIGERE, the motion and amendment were laid on the table.

The name of JOSEPH BLACK having been withdrawn, on motion of Mr. PORTER, of Northampton, the Convention proceeded to a second ballot, when there appeared for JAMES E. MITCHELL, 67; for CHARLES GLEIM, 65; so that JAMES E. MITCHELL was declared to be duly elected.

Mr. STEVENS, of Adams, moved that the Convention proceed to the election of Printer of the English debates.

On motion of Mr. PORTER, of Northampton, the further consideration of this motion was postponed for the present.

Mr. PORTER, of Northampton, then submitted a motion to proceed to the election of Doorkeeper, which, after an unsuccessful motion by Mr. RYTER, to amend by substituting "two Doorkeepers", for the word "Doorkeeper", was decided in the affirmative.

Mr. DICKEY, of Beaver, nominated DANIEL ECKLES; Mr. PORTER, of Northampton, nominated ANDREW KRAUSE; and Mr. KEIM nominated DOUGLAS W. HYDE. The Convention then proceeded to the election, and on counting the votes, there appeared, for DANIEL ECKLES 67; for ANDREW KRAUSE 47; for DOUGLAS W. HYDE 18. So DANIEL ECKLES was declared duly elected.

Mr. INGERSOLL, of Philadelphia, submitted the following resolution, which was laid on the table and ordered to be printed, after a few remarks from Mr. INGERSOLL, in which he stated that he considered the propositions to be of great importance, and that he intended to call the resolution up on a future day:

*Resolved*, That it be referred to a special committee to report what business it is proper for this Convention to take into consideration, and that the said committee be instructed to report a reference of the following several subjects, each one to a special committee, to be appointed by the President of this Convention, viz:

- 1st. The subject of legislation.
- 2d. The subject of the judiciary.
- 3d. The subject of the executive department.
- 4th. The subject of elections and suffrage.
- 5th. The subject of a bill of rights.
- 6th. The subject of constitutional amendments.
- 7th. The subject of the currency and finances.
- 8th. The subject of corporations and privileges.
- 9th. The subject of learning, education and science.
- 10th. The subject of official appointment and tenure.

dance of the delegates, elected by the people, on the 4th of November last, to prepare and propose amendments to the Constitution of the State, there is one absent, *and one who never can be here*; one who on the day of the election, which made you, sir, and every gentleman on this floor, with one exception, the gentleman who fills his place, members of this Convention, had as fair a prospect of being here as any one now present, one who could not have been detained by light and trivial causes from being here this day, *if in being*, but who submissively bowing to the will of *Omnipotence*, said, as his relatives and friends individually say, in relation to his loss, "the will of my God be done." I will be understood to mean DAN CALDWELL, of Union county.

It is not my purpose to eulogize Mr. CALDWELL, but I may be allowed to state, that in all the relations of life, in addition to being affectionate and kind, he was active, energetic and useful, upright in his deportment, a good citizen, and an honest man; therefore,

*Resolved*, That the Convention, as a token of their regard for the memory of DAN CALDWELL, allow this notice of his death to be put upon their journal.

Mr. MERRILL, of Union, rose and said:

Being altogether unacquainted with the rules of deliberative assemblies, I can say nothing, as to the propriety of any course of proceeding on an occasion so melancholy. As a citizen of the same county in which the deceased resided, it would be proper for me to say, that I had known him long, and respected him highly, and I fully concur in all that has been said in his praise. He was undoubtedly a man of integrity and intelligence; and though we sometimes differed on political questions, our long and intimate acquaintance and personal friendship had been uninterrupted. No man belonging to this body stood fairer or higher, and no man among his friends and acquaintances, enjoyed more of their respect and regard, than Mr. CALDWELL. Whatever evidences of respect, it would be proper for this Convention to manifest for the memory of any of its members, were fully deserved by him.

His death has been a serious affliction to his family and friends, a loss to the society in which he moved, and of which he was a prominent member; and in the performance of those high and important duties, which have devolved upon us, his counsel and assistance might have been very useful. He was a kind, warm hearted man, an exemplary parent, and a firm, undoubted friend of his country and her institutions. The loss of such a man creates a chasm in society which cannot be easily filled up.

I most cheerfully concur in any course of proceeding or any eulogium, which the Convention may think due to his memory.

The resolution was then read a second time and adopted.

Mr. INGERSOLL, of Philadelphia, submitted the following resolutions which were laid on the table, and on motion of Mr. BELL, of Chester, ordered to be printed:

*Resolved*, That the Secretary of the Commonwealth be requested to communicate to this Convention, the number of all the judges, justices of the peace, aldermen, and other judicial officers of this Commonwealth, together with their respective salaries, perquisites and official emoluments, and the dates of their respective appointments, as far as the same may be ascertained or estimated, so as to show the cost of the administration of justice in the state:

And that the Treasurer of the Commonwealth be requested to communicate to this

Convention a complete view of the expenditures, income, debts and property of the state, also a precise statement of all sums received at any rate, or receivable, from banks, as bonus, dividend, or otherwise; and as nearly as can be ascertained, of the amount of gold, silver and paper money in circulation as currency, or otherwise held in said state; and also a separate statement of all such sums as were received during the last financial year, as taxes, of all kinds.

*Resolved*, That the Secretary of the Commonwealth and the Treasurer of the State, be requested to furnish this Convention with statements showing the public cost, by taxation or otherwise, of schools, academies, colleges and education in this state, together with an estimate of a sum sufficient, and a plan of the best method of raising it, for educating all the children of the state.

Mr. FORWARD, of Allegheny, submitted the following resolution :

*Resolved*, That SAMUEL A. GILMORE be one of the Secretaries of this Convention, in the place of FRANCIS R. SHUNK.

Mr. STERIGERE, of Montgomery, moved to amend the resolution by striking therefrom all after the word "Resolved", and inserting in lieu thereof the following, viz :

"That SAMUEL A. GILMORE be appointed Secretary, in the place of FRANCIS R. SHUNK, Esq., who declined accepting that appointment, and that SAMUEL SHOCK and SAMUEL A. GILMORE be Secretaries of this Convention, with joint authority to appoint such transcribing and other clerks, in addition to those already appointed, as may be necessary, and do such other things as may appertain to their office, and that so much of the order of the Convention of the third instant, as constitutes an additional Secretary, and as is inconsistent herewith, be, and the same is hereby rescinded."

On motion of Mr. STEVENS, of Adams, the further consideration of the resolution and amendment was postponed for the present, and the question recurring on the election of Printers of the debates in the English language, the further proceedings on the election were postponed, on motion of Mr. FORWARD, of Allegheny.

Mr. FORWARD then submitted the following resolution :

*Resolved*, That PACKER, BARRETT & PARKE be Printers of the English debates; THOMPSON & CLARK, Printers of the English journal; E. GUYER, Printer of the debates in the German language, and JOSEPH EHRENFRIED, Printer of the journal in the German language.

The resolution having been read a second time, Mr. MARTIN, of Philadelphia, moved to amend by striking out the words "THOMPSON & CLARK", and inserting in their stead the words "SAMUEL D. PATTERSON"; which was negatived.

Mr. DONAGAN, of Berks, moved to strike out the words "JOSEPH EHRENFRIED", and insert in their stead the words "BAAB & RITTER"; which was also determined in the negative.

Mr. BROWN, of Philadelphia, moved to amend by striking out all after the words "English debates"; and the yeas and nays being demanded, the motion was decided in the negative, as follows :

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke, of Indi'a., Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Hastings, Hayhurst, Helfenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Myers, Nevin, Overfield, Porter, of Northampton, Read, Riter, Ritter, Rogers, Sellers, Scheetz, Shellito, Smith, Smyth, Sterigere, Stickel, Swetland, Taggart, Weaver, White, Woodward.—66.

NAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Bayne, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Philadelphia, Chandler of Chester, Chaun-

cey, Clapp, Clarke, of Beaver, Clark of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Harria, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Jenks, Kerr, Konigmacher, Long, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Stevens, Thomas, Todd, Weidman, Young, Sergeant, *President*.—67.

Mr. STERIGERE, of Montgomery, moved to amend the resolution, by inserting after the word "PARKE", the words SAMUEL D. PATTERSON", and after the words "English debates", the words "and English journals"; and the yeas and nays being demanded, the motion was decided in the negative, as follows:

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Hastings, Hayhurst, Helffenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Myers, Nevin, Overfield, Porter, of Northampton, Read, Riter, Ritter, Rogers, Sellers, Scheetz, Shellito, Smith, Smyth, Sterigere, Stickel, Swetland, Taggart, Weaver, White, Woodward.—66.

NAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Bayne, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Harris, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Jenks, Kerr, Konigmacher, Long, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Stevens, Thomas, Todd, Weidman, Young, Sergeant, *President*.—67.

Mr. PORTER, of Northampton, moved to postpone the further consideration of the resolution for the purpose of proceeding to the election of Printers, and a division of the question being called for by Mr. DICKERSON, of Washington, the question was taken on the first part of the motion, viz: "to postpone the further consideration of the resolution," and the yeas and nays having been demanded, the motion was decided in the negative as follows:

YEAS—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Hastings, Hayhurst, Helffenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Myers, Nevin, Overfield, Porter, of Northampton, Read, Riter, Ritter, Rogers, Sellers, Scheetz, Shellito, Smyth, Sterigere, Stickel, Swetland, Taggart, Weaver, White, Woodward.—65.

NAYS—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Bayne, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philada., Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Forward, Harris, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Jenks, Kerr, Konigmacher, Long, Maclay, M'Call, M'Dowell, M'Sherry; Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Stevens, Thomas, Todd, Weidman, Young, Sergeant, *President*.—67.

The question was then taken on the resolution of Mr. FORWARD, and, the yeas and nays being demanded, it was agreed to, by the following vote:



**YEAS**—Messrs. Agnew, Ayres, Baldwin, Banks, Barndollar, Barnitz, Bayne, Bedford, Bell, Biddle, Bonham, Brown, of Lancaster, Carey, Chambers, Chandler, of Philadelphia, Chandler, of Chester, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Cline, Coates, Cochran, Cope, Craig, Crain, Crum, Cummin, Cunningham, Darlington, Darragh, Denny, Dickey, Dickerson, Donagan, Donnell, Dunlop, Fleming, Forward, Gamble, Gearhart, Hamlin, Harris, Hastings, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Hought, Jenks, Kerr, Long, Lyons, Maclay, Mann, M'Cahen, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Nevin, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Read, Riter, Rogers, Royer, Russel, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Sterigere, Stevens, Stickel, Swetland, Taggart, Thomas, Todd, Weidman, White, Woodward, Young, Sergeant, *President*—93.

**NAYS**—Messrs. Barclay, Bigelow, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke, of Indiana, Crawford, Curll, Dillinger, Doran, Farrelly, Foulkrod, Fry, Fuller, Gilmore, Grenell, Helffenstein, High, Hyde, Ingersoll, Keim, Kennedy, Konigsmacher, Krebs, Magee, Martin, Miller, Myers, Overfield, Porter, of Northampton, Reigart, Ritter, Sellers, Scheetz, Shellito, Smyth, Weaver—37.

Mr. M'CAHEN, of Philadelphia, submitted the following resolution :

*Resolved*, That JOSEPH BLACK be a Sergeant-at-Arms of this convention, occupying equal grade with the present officer elect."

The resolution having been read a second time, Mr. READ, of Susquehanna, moved to amend by adding the words, "and that ANDREW KRAUSE be a doorkeeper of equal grade with the one heretofore elected."

On motion of Mr. STEVENS, of Adams, the resolution and amendment were then postponed indefinitely.

On motion of Mr. DORAN, of Philadelphia, the Convention resumed the consideration of the following resolution :

*Resolved*, That SAMUEL A. GILMORE be one of the Secretaries of the Convention, in the place of FRANCIS R. SHUNK.

Mr. BELL, of Chester, moved to amend the resolution, by striking out the name of "SAMUEL A. GILMORE", and inserting "JOSEPH WILLIAMS."

Mr. HIESTER, then moved the indefinite postponement of the resolution and amendment, and the question being taken by ayes and noes, the motion was decided in the affirmative, as follows :

**YEAS**—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Bedford, Bell, Biddle, Bonham, Brown, of Lancaster, Carey, Chambers, Chandler, of Philad., Chandler, of Chester, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Crain, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dillinger, Fleming, Fry, Gamble, Gearhart, Harris, Hayhurst, Hiester, Henderson of Dauphin, Henderson, of Allegheny, Hopkinson, Hought, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Stevens, Stickel, Swetland, Thomas, Todd, Weidman, Woodward, Young, Sergeant, *President*—76.

**NAYS**—Messrs. Banks, Barclay, Bayne, Bigelow, Brown, of Northampton, Brown of Philadelphia, Butler, Clarke, of Indiana, Cleavinger, Craig, Crawford, Cummin, Curll, Darragh, Donagan, Donnell, Doran, Dunlop, Earle, Farrelly, Forward, Foulkrod, Fuller, Gilmore, Grenell, Hastings, Helffenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Myers, Nevin, Purviance, Read, Riter, Ritter, Rogers, Sellers, Scheetz, Shellito, Smith, Smyth, Sterigere, Taggart, Weaver, White—56

Mr. M'CAHEN, of Philadelphia, submitted the following resolution :

*Resolved*, That the Convention now proceed to the election of another Secretary.

The resolution having been read a second time, Mr. STEVENS, of Ad-

ams, moved to amend, by striking out all after the word "Resolved", and inserting in lieu thereof the words, "that it is inexpedient to elect another Secretary".

Mr. MARTIN, of Philadelphia, moved to postpone the further consideration of the resolution and amendment, which was decided in the negative.

The question was then taken on the amendment, the yeas and nays being demanded, and it was decided in the negative, as follows:

**YEAS**—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Harris, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Jenks, Kerr, Konigsmacher, Long, Maclay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Royer, Russel, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Stevens, Thomas, Todd, Weidman, Young, Sergeant, *President*—63.

**NAYS**—Messrs. Banks, Barclay, Bedford, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke, of Beaver, Clarke, of Indiana, Cleavinger, Craig, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Farrelly, Fleming, Forward, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Hastings, Helffenstein, Hyde, Ingersoll, Keim, Kennedy, Kreba, Lyons, Magee, Mann, Martin, M'Cahen, Miller, Myers, Nevin, Overfield, Porter, of Northampton, Purviance, Read, Riter, Ritter, Rogers, Sellers, Scheetz, Shellito, Smith, Smyth, Sterigere, Stickel, Swetland, Taggart, Weaver, White, Woodward—69.

The resolution of Mr. M'CAHEN was then agreed to; when Mr. KONIGSMACHER, of Lancaster, nominated GEORGE W. HAMMERSLY; Mr. ROGERS, of Allegheny, nominated SAMUEL A. GILMORE; and Mr. MARTIN, of Philadelphia, nominated JOSEPH WILLIAMS.

The Convention then proceeded to the election, when, on counting the votes, there appeared, for GEORGE W. HAMMERSLY 55—SAMUEL A. GILMORE 48—JOSEPH WILLIAMS 28.

There being no election, the Convention proceeded to a second ballot, when there appeared, for SAMUEL A. GILMORE 55; GEORGE W. HAMMERSLY 46—JOSEPH WILLIAMS 31.

There being no election, on motion of Mr. REIGART, of Lancaster, the Convention adjourned.

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### FRIDAY, MAY 5, 1837.

On motion of Mr. STERIGERE, of Montgomery, the votes of the delegates on the different elections of yesterday, in the Convention, were ordered to be inserted on the journal.

Mr. REIGART, of Lancaster, submitted the following resolution, which was ordered to be laid on the table:

*Resolved*, That the Secretary be directed to furnish each member of the Convention with a copy of Purdon's Digest of the laws of Pennsylvania, (Stroud's edition,) and that the expenses of procuring the same, be paid as part of the contingent expenses of this Convention.

Mr. KERR, of Washington, submitted the following resolution, which was ordered to be laid on the table:

*Resolved*, That a sufficient number of copies of the Constitution of the State, be printed in the form bills are usually printed, for the use of the members of this Convention.

Mr. CLARK, of Dauphin, submitted the following resolution, which was ordered to be laid on the table :

*Resolved*, That the Secretaries to this Convention furnish each member with one printed copy of the rules and regulations which shall be adopted for its government.

Mr. STERIGERE, of Montgomery, submitted the following resolution :

*Resolved*, That the Constitution of the State of Pennsylvania, the act of 14th April, 1835, entitled "An act to provide for calling a Convention with limited powers;" the act of the 29th March, 1836, entitled An act providing for the call of a Convention to propose amendments to the Constitution of the State, to be submitted to the people thereof, for their ratification or rejection, with the supplements thereto, be prefixed to the journal of this Convention.

The resolution having been read a second time :

Mr. EARLE, of Philadelphia, moved to amend, by inserting, after the word "thereto", the words, "and also the returns of the elections held under the first mentioned act", which amendment was adopted, and the resolution, as amended, was agreed to.

Mr. DORAN, of Philadelphia, submitted the following resolution, which was ordered to be laid on the table :

*Resolved*, That a committee of \_\_\_\_\_ members be chosen by ballot to take into consideration the Constitution of this Commonwealth, with such alterations and amendments as may be necessary therein, as may have been agreed upon by the Convention, and to report a draft of proposed Constitution, altered and amended, as aforesaid.

Mr. M'DOWELL, of Bucks, submitted the following resolution, which was ordered to be laid on the table :

*Resolved*, That the Secretary of this Convention cause to be printed for the use of the members thereof, three hundred copies of the Constitution of 1776; three hundred copies of the present Constitution of Pennsylvania; three hundred copies of the act of assembly, entitled "An act to provide for the calling a Convention with limited powers," and three hundred copies of the act of assembly authorising the election and assembling of the delegates to this Convention.

Mr. DORAN, of Philadelphia, submitted the following resolution, which was ordered to be laid on the table :

*Resolved*, That the Secretaries be, and they are hereby directed, to purchase for the use of the Convention, twelve copies of Elliott's debates, on the adoption of the federal Constitution.

Mr. EARLE, of Philadelphia, submitted the following resolution :

*Resolved*, That the Secretaries be directed to procure for each member of this Convention, if practicable, one copy containing the several Constitutions of the United States, and of each state of this Union, at an expense not exceeding one dollar and fifty cents for each copy.

Mr. SMYTH, of Centre, moved to amend the resolution (the same having been read a second time) by striking out the words "and fifty cents," when,

On motion of Mr. STEVENS, of Adams, the resolution and amendment were ordered to be laid on the table.

On motion of Mr. BROWN, of Philadelphia,

*Resolved*, That a Committee be appointed to report what books are necessary to be purchased for the use of this Convention.

*Ordered*, That Messrs. BROWN, of the county of Philadelphia, CLARK, of Dauphin,

REIGART, M'DOWELL and EARLE, be the committee for the purpose expressed in this resolution.

Mr. CHAMBERS, from the committee appointed to consider and report rules for the regulation of the proceedings of the Convention, made a report which was read as follows, viz :

### OF THE DUTIES OF THE PRESIDENT.

1. He shall take the chair at the hour to which the Convention shall have adjourned, and immediately call the delegates to order, and on the appearance of a quorum shall cause the journal of the preceding day to be read, which may then be corrected by the Convention.

2. He shall preserve order and decorum, and in debate shall prevent personal reflections, and confine members to the question under discussion. When two or more delegates rise at the same time, he shall name the one entitled to the floor.

3. He shall decide questions of order. An appeal from his decision may be made by two delegates, or the President may in the first instance submit the question to the Convention. On questions of order, there shall be no debate, except on an appeal from the decision of the President, or on a reference of a question by him to the Convention, when no delegate shall speak more than once, unless by leave of the Convention.

4. While the President is putting a question, or addressing the Convention none shall walk over, off or across the House, nor in such case, or when a delegate is speaking shall entertain private discourse, nor, while a delegate is speaking shall pass between him and the Chair.

5. The President shall appoint the standing and select committees, unless otherwise ordered by the Convention.

6. He shall have a general direction of the Hall. He may name a delegate to perform the duties of the Chair, but such substitution shall not extend beyond an adjournment. In case of the sickness or necessary absence of the President, a President *pro-tempore* shall be chosen, who, while he so officiates, shall be clothed with all the powers and perform all the duties of President.

### OF THE ORDER OF BUSINESS.

7. After the journal has been read, the order of business shall be as follows :

1. Letters, petitions, memorials, remonstrances and accompanying documents may be presented and referred.
2. Original resolutions may be offered—leave of absence and leave to withdraw petitions and documents may be asked, and motions to appoint additional members of committees may be made.
3. Reports of committees may be made :
  - 1st. From standing committees.
  - 2d. From select committees.
4. Articles of amendment on third reading.
5. Motions to reconsider may be made.
6. Reports and resolutions may on motion be considered.
7. Articles of amendment in the following order :
  1. Those in which the Convention has made progress in second reading
  2. Those reported by a committee of the whole.

3. Those in which the committee of the whole has made progress, and has leave to sit again.
4. Those not yet considered in committee of the whole, shall be taken up.

### OF BUSINESS AND DEBATE.

8. When a delegate is about to speak in debate, or to communicate any matter to the Convention, he shall rise and respectfully address himself to "Mr. President", confining his remarks to the subject before the Convention, and avoiding personal reflections.

9. If any delegate in debate transgress the rules of the Convention, the President shall, or any delegate may, through the President, call him to order; the delegate so called to order shall immediately sit down, unless permitted to explain. The Convention shall, if appealed to, decide on the case, but without debate: If there be no appeal, the decision of the President shall be subscribed to; and if the case require it, the delegate so called to order, shall be liable to the censure of the Convention.

10. No delegate shall speak more than twice to the same question, without leave of the Convention.

11. No delegate when speaking shall be interrupted, except by a call to order by the President, or by a delegate through the President, or by a member to explain. Nor shall any delegate be referred to by name in debate, unless for a transgression of the rules of the Convention, and then by the President only.

12. A delegate presenting a petition or other paper to the Chair, shall state only the general purport of it. The name of every delegate presenting a petition or other paper, or making a motion, shall be entered on the journals.

13. No member shall be permitted to make a motion, or address the Speaker, unless such member shall be at his own desk.

### OF MOTIONS.

14. All motions made and seconded, shall be repeated by the President, who shall put the question distinctly in the following form, viz:

"As many as are of opinion (as the question may be) say *Aye*". And after the affirmative is expressed, "as many as are of a contrary opinion say *No*".

But the President or any delegate, may call for a division of the Convention, when the President shall again put the question distinctly, and in the following manner, viz: "*As many as are in the affirmative will rise*". And when he has announced the number in the affirmative, he shall put the opposite side of the question: "*As many as are in the negative will rise*".

15. If the President, or any two delegates require it, a motion made shall be written.

It may be withdrawn by the mover and seconder, before amendment or decision; and if withdrawn shall not appear on the journal.

16. Any delegate may call for the division of a question, which shall be divided if it comprehends questions so distinct, that one being taken away the rest may stand entire for the decision of the Convention. A motion to strike out and insert shall be deemed indivisible. But a motion to strike out being lost, shall preclude neither amendment, nor a motion

to strike out and insert. No motion can be received to postpone for the purpose of introducing a substitute.

### OF PRIVILEGED QUESTIONS.

17. No business regularly before the Convention, shall be interrupted, except by a motion

For adjournment; For the previous question, namely, "shall the main question be now put?" For postponement; For commitment; Or, for amendment.

18. A motion for adjournment shall always be in order, and shall be decided without debate; except that it shall not be received when the Convention is voting on another question, nor while a delegate is addressing the Convention.

A motion for the previous question, shall preclude amendment and discussion of the original subject. But the previous question shall not be made by less than eighteen delegates, rising for the purpose, and shall be decided without debate.

A motion for postponement shall preclude commitment. A motion for commitment, shall preclude amendment or decision on the original subject.

19. No motion for reconsideration shall be permitted, unless made and seconded by members who were in the majority on the vote on the original question, and within six days, exclusive of Sundays, after the decision.

20. When a blank is to be filled, the question shall be first taken on the largest sum, greatest number and remotest day.

21. In all cases of elections a majority of the delegates present shall be necessary to a choice, and the voting shall be *viva voce*.

Every resolution to alter the rules of this Convention, or for information from the Executive or Departments, shall be on the table one day.

### OF COMMITTEES.

22. Committees may be of three kinds, viz:  
Committees of the whole; Standing Committees; Select Committees.

#### OF COMMITTEE OF THE WHOLE.

23. The rules and proceedings observed in the Convention shall be observed as far as they are practicable in committee of the whole, except that a delegate may speak oftener than twice on the subject, nor can a motion for the previous question be made therein.

24. When the Convention resolves itself into a committee of the whole, the President shall appoint a chairman unless otherwise ordered by the Convention.

25. Amendments made in committee of the whole shall be read on the President's resuming the chair, and shall be entered on the journal.

26. When in committee of the whole, any paper laid on the table of the Convention may be called for by a delegate and read, unless the committee otherwise order.

27. No committee shall sit during the sitting of the Convention without leave.

28. The following standing committees shall be appointed:

1. A committee on the 1st Article of the Constitution.



2. A committee on the 2d Article of the Constitution.
  3. A committee on the 3d Article of the Constitution.
  4. A committee on the 4th Article of the Constitution.
  5. A committee on the 5th Article of the Constitution.
  6. A committee on the 6th Article of the Constitution.
  7. A committee on the 7th Article of the Constitution.
  8. A committee on the 8th Article of the Constitution.
  9. A committee on the 9th Article of the Constitution.
  10. A committee on the subject of further amendments of the Constitution.—Each committee to consist of nine members.
  11. A committee of accounts to consist of five members.
- And it shall be the duty of the said several committees to take into consideration the said several articles, and the subjects, matters and things therein contained, and all resolutions touching the same referred to them by the Convention, and to report thereon.
29. All Articles of amendment proposed to the Constitution, shall receive three several readings in the Convention previously to their passage, the first of which shall be in committee of the whole; and the Convention shall order the printing of the same for the use of the members as they shall think expedient.
30. When the names of the delegates shall be called, it shall be done in alphabetical order, except Mr. President, who shall be called last.
31. The yeas and nays of the delegates, on any question, shall, at the desire of any two of them, be entered on the journals, and the delegates shall have a right to insert the reasons of their votes on the journals.
32. No delegate shall absent himself without first obtaining leave of the Convention.
33. No delegate shall be permitted to vote on any question, unless he be within the bar, and when the yeas and nays are called, he be present to answer to his name.
34. On the call of the yeas and nays, one of the Secretaries shall read the names of the delegates after they have been called, and no delegate shall be permitted to change his vote, unless he at that time declares that he voted under a mistake of the question.
35. On the call of a member for the consideration of a resolution or other subject, on the table of the Convention, the question shall be decided without debate.
36. None but the members of the Convention and its officers, and such Stenographers or Reporters as shall have permission given them by the President, shall be permitted to come within the bar of the Convention during its session.
37. No rule shall be altered, or dispensed with, but by two thirds of the delegates present.

On motion of Mr. INGERSOLL, of Philadelphia, the report was ordered to be printed.

On motion of Mr. PORTER, of Northampton, the following resolution offered by him on the 3d instant, was read a second time :

*Resolved*, That the Secretaries cause to be procured, for the use of each member of this Convention, a copy of the proceedings relative to calling the Conventions of 1776

and 1790: *Provided*, The cost of each copy shall not exceed one dollar and fifty cents, and that the amount be paid as part of the contingent expenses.

Mr. PORTER then moved, that the said resolution, with all others offered this morning, relative to the purchase of books for the use of the delegates, be referred to the committee appointed to report what books are necessary to be purchased for the use of this Convention, which was agreed to.

The Convention proceeded to the election of an additional Secretary; Mr. KONIGMACHER withdrew the nomination of GEORGE W. HAMMERSLY; and the votes being taken, it appeared that

SAMUEL A. GILMORE	- - - - -	had 67 votes,
JOSEPH WILLIAMS	- - - - -	63 "

SAMUEL A. GILMORE having a majority of the whole number of votes, was therefore declared duly elected.

Mr. HIESTER, of Lancaster, moved that the Convention proceed to the election of a Stenographer, which was agreed to, when, on motion of Mr. STERIGERE, of Montgomery, the election was postponed for the present.

Mr. STERIGERE then submitted the following motion, which was unanimously agreed to :

That the President of the Convention be authorised and empowered to employ some suitable and competent Stenographer, or Stenographers, to note and report the debates of the Convention.

On motion of Mr. KERR, of Washington, the following resolution offered by him this morning, was read a second time :

*Resolved*, That a sufficient number of copies of the Constitution of the State, be printed in the form bills are usually printed, for the use of the members of this Convention.

Mr. FLEMING, of Lycoming, moved to amend the resolution, by inserting after the word "Constitution", the words "and the bill of rights", which was accepted, as a modification by the mover.

Mr. PORTER, of Northampton, moved further to amend the resolution by inserting after the word "rights", the words "and the Constitution of 1776", which was agreed to.

Mr. M'DOWELL, of Bucks, moved further to amend the said resolution by inserting after the words "1776", the words "and of the act of Assembly entitled 'An act to provide for the calling a Convention with limited powers', and of the act of Assembly authorising the election and assembling of the delegates to this Convention", which was decided in the negative, and the resolution was then agreed to.

Mr. INGERSOLL, of Philadelphia, moved that the Convention proceed to the consideration of the following resolution, with a view to the second reading :

*Resolved*, That it be referred to a special committee to report what business it is proper for this Convention to take into consideration, and that the said committee be instructed to report a reference of the following several subjects, each to a special committee, to be appointed by the President of this Convention, viz :

1. The subject of legislation.
2. The subject of the judiciary.
3. The subject of the executive department.
4. The subject of election and suffrage.
5. The subject of a bill of rights.
6. The subject of constitutional amendments.
7. The subject of the currency and finance.
8. The subject of corporations and privilege.

9. The subject of learning, education and science.
10. The subject of official appointment and tenure.
11. The subject of the militia.
12. The subject of public highways by land and water, and the eminent domain of the state.
13. The subject of internal improvements.
14. The subject of the political year.

Together with such other subjects as the said first mentioned committee may think fit to report for the action of this Convention, and that the said committee be instructed to report whether this Convention is, or can be restrained by any act of the Legislature, in its power to submit amendments to the Constitution or a new Constitution for the acceptance of the people.

Mr. STEVENS, of Adams, did not consider that it was proper to proceed to the consideration of this resolution until after the Convention had acted upon the rules which had just been reported from the committee on that subject. Besides, by the rules of the house which governed the Convention, the motion of the gentleman was not now in order.

Mr. FORWARD, of Allegheny, would be glad if the consideration of this resolution should not be urged until after the report of the committee to prepare rules was adopted, as that might perhaps supersede the necessity of adopting this resolution.

Mr. INGERSOLL then asked for leave to make a motion that the Convention proceed to act upon this resolution. He would state at the same time that he should not oppose the adoption of the rules alluded to. There were however subjects in the resolution not embraced in the rules.

Mr. CHAMBERS, of Franklin, thought the Convention would not be able to act understandingly on this subject, until they had the report of the committee just made, printed, and laid before them. Every subject in the Constitution was embraced in the rules reported, and as the Convention had refused to proceed to the consideration of these rules, he considered it proper that this matter should not be acted upon at present.

Mr. EARLE of Philadelphia, was surprised to hear gentlemen argue that because the rules were not printed it was not proper to consider this resolution. The proposition of the committee was merely to refer the nine articles in the Constitution to nine different committees, and how much more wise would they be after that report was printed than they were now. Every gentleman had a copy of the Constitution before him, and could examine those articles just as well now, as after this report should be printed. He hoped therefore they would proceed in this matter.

Mr. STEVENS, of Adams, had been favourable to proceeding to consider and adopt the rules at the time they were reported. The gentleman from Philadelphia county, (Mr. INGERSOLL,) however, considered it was absolutely necessary that they should be printed; and he hoped now the gentleman would allow his motion to lie over until the report on the rules should be adopted.

Mr. INGERSOLL replied at some length, stating as a reason why he had moved to have the report printed, that he saw some portions of the rules which he considered exceptionable. He again repeated that he did not mean to oppose the rule referring certain articles of the Constitution to committees. There were, however, in his resolutions, subjects of importance not embodied in the rules alluded to.

Mr. EARLE suggested to the gentleman from Philadelphia, whether it

would not be better to withdraw his motion, and move a reconsideration of the motion to print the rules.

Mr. DUNLOP, of Franklin, could not see how it was possible that there should be any thing in the resolution of the gentleman which would not come before one of the committees to be appointed by the rules. All the Constitution was contained in the nine articles proposed to be referred; and if there was any thing in the resolution of the gentleman which had nothing to do with the Constitution, he conceived it to be an improper subject to bring before that Convention.

The motion was then disagreed to, and the Convention adjourned.

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### SATURDAY, MAY 6, 1837.

On motion of Mr. CURLL, of Armstrong :

*Resolved*, That a committee be appointed to superintend the printing of the journal in the English language, and that a committee be appointed to superintend the printing of the journal in the German language.

*Ordered*, That Messrs. Curll, Chandler, of Philadelphia, and Thomas, be the committee to superintend the printing of the journals in the English language; and, that Messrs. Seltzer, Ritter and Merkel, be the committee to superintend the printing of the journal in the German language.

Mr. STERIGERE, of Montgomery, submitted the following resolution, which was read a second time, considered and adopted :

*Resolved*, That the Librarian of the State Library be requested to furnish books to the Convention during its session, under the same rules and regulations as they have heretofore been furnished to members of the Legislature.

Mr. MERRILL, of Union, submitted the following resolution :

*Resolved*, That the committee on books and printing of this Convention, be directed to report what books ought to be added to the State Library for the use of the members of this Convention.

Which resolution being read a second time,

Mr. BROWN, of Philadelphia, hoped the gentleman would withdraw this resolution for the present, as the committee had only this moment received notice of their appointment; consequently they could not be prepared to report. Besides he apprehended that it did not come within the scope of the Convention to buy books to be placed in the Library, as that would be only an appropriate subject for the consideration of the Legislature. This Convention had the power to purchase books for the use of its members; but he doubted whether they had the power to purchase books for the increase of the Library.

Mr. MERRILL thought if they had the right to buy books for the use of the members of the Convention, they had the right to buy them for the purpose of being deposited in the Library. He only desired that the books should be purchased and deposited in the Library during the session of the Convention for the use of the delegates.

The question was then taken on the adoption of the resolution, and it was decided in the negative.

Mr. EARLE, of Philadelphia, submitted the following resolution, which was laid on the table :

*Resolved*, That the Secretary of the Commonwealth be requested to furnish the Secretaries of this Convention with certified statements of the number of votes given in each county for and against a Convention, at the general election, in the year one thousand eight hundred and thirty-five.

Mr. DILLINGER, of Lehigh, submitted the following resolution, which was laid on the table :

*Resolved*, That the same number of copies of the debates and journals respectively of this Convention be printed and distributed in the same manner as is now provided by law for the printing and distribution of the journals of the Legislature of this Commonwealth.

Mr. EARLE, of Philadelphia, submitted the following resolution, which was laid on the table :

*Resolved*, That the Constitution be so amended, that the Legislature shall provide, by law, adequate and exemplary penalties, to be imposed on all those who shall, by mobs, violence or otherwise, interfere with the right of freedom of speech, of the press, and of public discussion, in relation to all subjects and questions of public or general interest; also, that the Legislature shall provide by law for the compensation of all persons, or their heirs, relations or representatives, who shall be injured in person or estate, in any mob or riot consisting of more than persons; unless such mob or riot shall have been directly instigated, aided or encouraged by the person or persons so injured.

On motion of Mr. INGERSOLL, of Philadelphia, the Convention then proceeded to the second reading and consideration of the resolutions offered by him on the 4th instant, as follows :

*Resolved*, That the Secretary of the Commonwealth be requested to communicate to this Convention, the number of all the judges, justices of the peace, aldermen, and other judicial officers of this Commonwealth, together with their respective salaries, perquisites and official emoluments, and the dates of their respective appointments, as far as the same may be ascertained or estimated, so as to show the cost of the administration of justice in the State :

And that the Treasurer of the Commonwealth be requested to communicate to this Convention a complete view of the expenditures, income, debts and property of the State; also, a precise statement of all sums received at any time, or receivable, from banks, as bonus, dividend, or otherwise: and, as nearly as can be ascertained, of the amount of gold, silver and paper money in circulation, as currency or otherwise, held in this State; and also, a separate statement of all such sums as were received during the last financial year as taxes, of all kinds.

*Resolved*, That the Secretary of the Commonwealth, and the Treasurer of the State, be requested to furnish this Convention with statements showing the public cost by taxation, or otherwise, of schools, academies, colleges and education, in this State, together with an estimate of a sum sufficient, and a plan of the best method of raising it, for educating the children of the State.

Mr. DICKEY, of Beaver, moved to amend by striking from the first resolution, the following words, viz: "And as nearly as can be ascertained of the amount of gold, silver and paper money in circulation, as currency, or otherwise held in this State".

Mr. DICKEY wished to say one word in support of this amendment.—It would be impossible for the State Treasurer to ascertain the amount of gold, silver and paper money in circulation in Pennsylvania, therefore it would be unnecessary to impose on him a duty which he could not discharge. All the information which that officer could give on this subject, might be obtained from the abstract of the state of the banks, published during the last session of the Legislature. He was perfectly willing that all the information should be given to the Convention which could possi-

bly be obtained, but he was unwilling to impose a duty on an officer which he could not discharge: he hoped the amendment would be agreed to.

The amendment was then agreed to, ayes 61, noes 49.

Mr. STERIGERE, of Montgomery, moved to take the question on the resolutions separately.

Mr. STEVENS, of Adams, could not see how the Secretary of the Commonwealth could ascertain the official emoluments of the different officers. He thought it impossible for that officer to ascertain their official emoluments, although he might have in his possession the amount of their salaries. He moved therefore to strike out the words "perquisites and official emoluments".

Mr. INGERSOLL said his very object was to ascertain what was paid to the various judicial officers of the Commonwealth, in addition to their salaries. In the laws of the last session of the Legislature he had discovered, much to his surprise, incorporated with an act relating to the administration of justice, and perhaps properly incorporated with it, that the Judges of the Supreme Court be allowed a compensation of four dollars a day while they were travelling. He desired then to know how much was received by each judicial officer, beyond the annual salary, so that when they come to act on the subject of the Judiciary, they might act understandingly. There might be other allowances to these officers besides that alluded to. There were also, for aught he knew, and he believed there were, other perquisites and emoluments allowed to the judicial officers, and he deemed it an important consideration that the Convention might be informed of the extent to which this system prevailed. The Aldermen of Philadelphia received certain emoluments, and he wished to be informed whether they received them in pursuance of any act of the Legislature. If the Secretary of the Commonwealth was not informed on this subject, he could say so, but if he was, Mr. I. would like to have the information from him. In short, his object was to arrive at an estimate of the amount of their emoluments, and every body must see that the language of the resolution was so couched as to leave the Secretary to answer as he might be informed. If he could not answer the call he might say so; but Mr. INGERSOLL was very sure that that officer, from the position in which he was placed, was better informed on this subject than perhaps any of the delegates to this Convention; and if it should appear that any of these officers received any thing but what was provided for by the act of Assembly, he was decidedly opposed to it. He desired that every cent received by these officers should be publicly known. His wish was that they might be fairly compensated, but he thought it entirely improper that the magistrate should be enabled to receive one cent which was not known to the community at large, and he had reason to believe that something of this kind did exist. He trusted therefore that, unless there could be some better reason adduced than that suggested by the gentleman from Adams (Mr. STEVENS,) the amendment might not prevail.

Mr. STEVENS withdrew his amendment, but suggested that the Secretary of the Commonwealth was not the proper officer to call upon for this information. It seemed to him that some officer connected with the Treasury, would be better able to answer the inquiry than the Secretary of the Commonwealth.



Mr. INGERSOLL then modified his resolution so as to insert after the words "Secretary of the Commonwealth", the words "and Auditor General".

Mr. MERRILL said the Auditor General would have the settling of all these accounts, and it seemed to him that the resolution was now in a shape to make it acceptable.

The first resolution was then agreed to.

The second resolution being read,

Mr. INGERSOLL modified it so as to read "Secretary of the Commonwealth, Auditor General", &c.

Mr. MERRILL would suggest whether the gentleman could not obtain his object better by allowing the subject to go to a committee of the Convention.

Mr. BROWN, of Philadelphia, asked whether it would not be the better course to make the inquiry of the Executive.

Mr. MERRILL then moved to strike out all after the word "State", with a view to send the remainder of the resolution to a committee.

Mr. INGERSOLL would very candidly state his object in offering this resolution. Before he left home he had been informed by a gentleman of the highest respectability, who took an interest in every thing of this kind that he had received a very able report from the Secretary of the Commonwealth on this subject. Since he had arrived in this place he had looked over this report and it appeared to be a very able paper. The Secretary appeared to be so much better informed on this subject than he was, that he supposed the better course would be to call upon him for this information, which he doubted not the Secretary was willing and even anxious to impart. He thought that by the Secretary's communicating the report he had made to the Legislature, and adding to it any information he might have received since, very important results might be derived from it. It was true that a committee of the Convention might do the same business by unofficially calling on the Secretary, but he had thought that officially calling upon him would give him an opportunity of doing what he was so well able and so well disposed to do, and would be a benefit to the community and tend to further the cause of education. If a majority of the Convention should think it better to refer the matter to a committee, so be it; he had no other object in view than the public good.

Mr. MERRILL then withdrew his amendment, and the second resolution was agreed to.

The Convention then proceeded to the consideration of the report of the committee to draft rules for the government of the body.

The first four rules were adopted without amendment.

The fifth rule was read as follows :

"5. The President shall appoint the standing and select committees unless otherwise ordered by the Convention".

Mr. STERIGERE, of Montgomery, moved to strike from this rule the words "standing and", and add to the end thereof the words "and the standing committees shall be elected by a vote of the Convention".

Mr. MEREDITH, of Philadelphia, was sorry this motion was made by the gentleman in front of him from Montgomery. He was sorry the Convention should be now called upon to declare that their President was not

entitled to the same confidence, which was placed in the presiding officer of almost every other deliberative assembly in this country. Knowing, as he believed he knew, that this motion was not introduced in consequence of any personal feelings, he hoped it would be withdrawn, as he could not think but that it would lead to a debate and difficulty which ought not to be encouraged in this Convention. The committee which prepared these rules had taken for their guide those which had long been established and practised upon in the House of Representatives of the State, and he trusted that unless some good reason could be given, the amendment might not prevail.

Mr. BANKS, of Mifflin, thought we had better not introduce here, matters calculated to create excitement and discussion. He did not believe that the proposition was introduced for the purpose of creating any party feelings, but at the same time, it would tend to no good result, and he hoped the gentleman from the city, as well as the gentleman from Montgomery, would pursue such a course as would prevent an exciting party discussion and that we might be allowed to proceed with the business committed to our charge without delay.

Mr. MEREDITH explained that he had mentioned that this motion might appear to exhibit a want of confidence in the President of the Convention, but at the same time he said he did not believe that such distrust was personally felt by the members of the body.

Mr. BANKS was confident the gentleman who introduced this motion had no such feeling, nor was there any such feeling prevailing with the party to which he belonged. Those gentlemen were anxious to enter upon the duty committed to their charge in view of adopting such measures as might be submitted to the people, without any party feelings being connected with them. The gentleman from Montgomery believed the committees could be selected by the Convention quite as satisfactorily as in any other way. Other gentlemen thought the President should have the power of appointing them. Mr. BANKS said his own opinion was that the appointment of committees should be left with the presiding officer, unless that officer, by some act of his, should compromise the interests of the people, and, unless this should be the case, he was clearly of opinion that it was the duty of the Convention, to allow him those privileges granted to the presiding officer of almost every other deliberative body.

Mr. STERIGERE rose to disclaim the motive which gentlemen had supposed might be inferred from this motion. He had made the motion because he considered it a proper one, and the reasons given in relation to legislative bodies did not apply in this case. In the Senate of the United States, the committees were chosen by ballot; in the other House of Congress, the presiding officer appointed them. In this Convention, they had but very few committees to appoint, and certainly very few standing committees, so that the objection as to the loss of time could not apply in this case. If a political friend of his was occupying the chair he would make the same motion, and he made this remark to show that it was not out of any political feeling that he made the motion. He proposed confiding the selection of the standing committees to the Convention; and he did not think the presiding officer desired to have the selection left

with him. He did not believe that the presiding officer would regard this motion as personal to himself; it was not offered in that temper, so that the remark would not apply to him. He was disposed to be liberal in matters of this kind, but he thought the selection of the standing committees appropriately belonged to the Convention. Whatever decision, however, the Convention might come to, he would acquiesce in it.

Mr. CLARKE, of Indiana, apprehended the reason why the Senate of the United States elected their committees was, that they had nothing to say in the election of their presiding officer, therefore he might not have their confidence. But it appeared that this practice did not prevail in the House of Representatives of the United States, and in this state it did not prevail in either branch of the Legislature. Gentlemen here were accustomed to the rules which were practised upon in the Legislature, and he could see no necessity or propriety in changing from the old to a new mode. If they changed the existing practice in the Legislature they ought to have some good and substantial reason for it, and he felt free to admit that he could see no good reason for the change. He was perfectly satisfied with the rule as it was, and should vote against the amendment.

Mr. INGERSOLL, of Philadelphia, would vote against the amendment proposed by the gentleman from Montgomery, but for reasons entirely different from those of the gentleman who had just taken his seat; and averse as he was to troubling the Convention, he felt compelled to give the reasons why he should vote against this amendment.

Sir, said Mr. I. to me this is a question of feeling, of painful feeling, of excited feeling, of feelings under which I have been suffering ever since I took my seat in this Convention. I am not surprised at the motion, sir. I have regretted, deeply regretted, sir, and I believe all of us will regret to the last day we have to live, that it should be deemed necessary by any member of this body to take from its presiding officer the usual attributes and power of presiding officers of almost all legislative bodies, which, in the language of this rule, is the appointment of the standing and select committees. But, sir, is it to be wondered at that there should be a desire to take this power from you? Sir, I trust there are some here without any personal feelings, because I disclaim any; I am speaking impersonally; I trust there are here present some who do not deny that the chair of this Convention has been forced upon you by a party vote.—Sir, I came here under very different impressions, and with very different hopes. Those illustrious men to whom you alluded on taking the chair, M'KEAN, and MIFFLIN, in our own state, MONROE, of Virginia, ADAMS, of Massachusetts, and MACON, of North Carolina, were selected to preside over the Conventions for altering the Constitutions of their different states, and, if I mistake not, in every instance, even in the most exciting periods of party organization, were allowed to take the chair without opposition. Sir, what friends it has been that forced upon you the necessity of taking that chair under the highest state of party discipline I ever saw in my life, I know not; I care not. I can only say for my own part that I would a thousand times rather trust you with the selection of the committees than the majority that put you there, because I flatter myself that, under your high responsibility and well known character as a gentleman, there will be a much better chance for the minority than from the majority in the Con-

vention, from whom we in the minority have very little to expect. I have had some experience in these matters and have witnessed high party excitements, but in the course of my whole life I never saw so many schemes put in practice in order that the Secretaries, Door-keepers, and Assistants might all be of the right party. Sir, what will be said of us abroad; what will be said of us by that posterity to which you the other day alluded? I am a party man at all times and on all proper occasions, because I know of no other means in this supremely free country of sustaining what is right and of hindering what is wrong. I hope, however, that in this Convention we may act without regard to minor matters in politics. If there are any great principles which one party supports and another opposes, let us discuss the matter and see which party is in the right. But after the experience of the past week, which I say again has been a painful week to me, I do not wonder at the motion which has been made. I shall vote against it, however, in the first place, because it has been the constant practice for presiding officers to appoint committees in this state; but in the second place, I shall vote against it because I find here a state of organization that displayed itself on the first day of the meeting of the Convention, which makes me much better satisfied to trust the President than the majority of the Convention.

Mr. CHAMBERS, of Franklin, said that however great the responsibility to be imposed on the Chair by the rule under consideration, he apprehended there was no one more capable of meeting it than the Chair himself. He would beg leave to correct a remark of the gentleman from Philadelphia, (Mr. INGERSOLL): the Convention was not organised in the first instance by the selection of all the officers of the same party; and the party organization which was resorted to, was not altogether on one side of the house, for both parties participated in it. Whatever opinions we may entertain, said Mr. CHAMBERS, it is not for us to exculpate ourselves in this matter, as both parties are equally obnoxious to the charge made by the gentleman. If there was organization on the part of the majority, was it not to the same extent on the other side throughout the balloting, and was not that honorable gentleman found in that organization on all occasions? I do not think the proceedings of the week commend themselves so much to us as to make us desire to proceed to another election. We have seen hour after hour spent in efforts to elect officers of the Convention, and what might we expect if we were to proceed to an election of Committees. The Convention has spent nearly a week in the election of some four or five officers, and if it goes into an election of some nine or ten committees, of nine members each, there must evidently be a very great consumption of time; and if there is to be a consumption of time by the Convention, I hope it will be on graver matters than the election of standing committees. He should not have risen to make a single remark, but that he was a member of the committee which reported these rules to the Convention. As had been stated by his friend from Philadelphia, (Mr. MEREDITH) the committee were disposed to adhere to the rules of the House of Representatives as far as they were applicable. They were disposed to surrender their own opinions on many matters which they even considered exceptionable, because they were the rules practiced upon in the house, and were familiar to many members of this body.—

The rule under consideration was one of the standing rules of the house, and was the prevailing rule in all other legislative bodies of which he had any knowledge excepting only the Senate of the United States; and he considered the reason adduced by the gentleman from Indiana for its not prevailing there a good one. It appeared to him that they should not change this rule unless they discovered some abuse of it; but until there was evidence of such abuse he considered they ought to adopt a rule which the people of Pennsylvania had been satisfied with for more than half a century.

Mr. STEVENS, of Adams, said that in his mind this philippic of the gentleman from Philadelphia, (Mr. INGERSOLL,) against the spirit of party was more ridiculous than it was solemn or beautiful, especially considering the course pursued by the gentleman himself and his friends.— In the first place (said Mr. S.) the gentleman deplores the spirit of party which called you, Mr. PRESIDENT, to that chair, and refers to the unanimity which prevailed on similar occasions in New York, Massachusetts, and Virginia, in calling to the chair one of their illustrious men; but from whence came the opposition to you, sir? Depend upon it, you would have been elected unanimously if the gentleman and his friends had all voted for you; but not one of those gentlemen had the magnanimity which prevailed in New York and other states. Deplorable indeed must have been the spirit of party with those gentlemen who were in the minority, and voted in the negative, and introduced the full spirit of party so much deplored on this occasion. How was it with regard to every other officer of the Convention? There was not a member of the party which was in the majority, who moved to appoint an assistant Sergeant-at-arms, or a sub-Doorkeeper, but several gentlemen of the minority, contrary to former usage, solemnly moved that the Convention go into an election of a deputy Sergeant-at-arms and deputy Doorkeeper. It was then worthy the attention of the united wisdom of Pennsylvania, as he thought they might consider themselves, to go into an election of the man who was to carry your water; and all these motions came from that side of the house which mourns over the spirit of party existing here, which did not exist in New York, where all parties united on Mr. TOMPKINS, and in Massachusetts, where all parties united on Mr. ADAMS. He would ask those gentlemen in the minority, which of them was elected on any other than party grounds, and in most instances they were pledged to vote with the party, and in some counties they even had written pledges that they would abide by the party, and that at least they would go together in taking the monster by the horns. Was there a county in the state where the friends of the gentleman from Philadelphia county had exercised forbearance? If so, Mr. STEVENS did not recollect it. In this Convention, on one or two occasions, the majority had shown a want of unanimity, he thought he might say a foolish want of unanimity, and the opposite party had obtained an officer or two in consequence of one or two of the majority voting with the minority. Now Mr. STEVENS would like to see this much magnanimity with some of the party in the minority, merely for the novelty of the thing. They were sent here to act upon great and important subjects, and so far as they were sent under any organization they ought to adhere to it, because the party to which they belonged was founded upon the principle of vested rights, which was older than the Consti-



tution, and the fundamental principles of justice, and any party thus founded ought never to depart from its principles.

Mr. MERRILL, of Union, observed that there was an old book, though a very excellent one it was at the time it was written, and it lays open the recesses of the human heart in a most remarkable manner. He alluded to Father Paul's History of the Council of Trent. The writer gives a description of a conclave of Cardinals formed for the purpose of choosing a Pope, and he says there are three modes of proceeding to effect that object. After a convocation of Cardinals is had, the wisest men of the body are appointed to consider the relations in which they all stand to the Church, and to select one man, whom they deem most competent to fill the office of Pope. Now these are two of the modes; and the third is, that, after all sorts of manoeuvring resorted to, and excitements created, some man rises up in his place, and calls out the name of the individual, whom he wishes to be elected. At that instant, all his friends spring upon their feet, and drown by clamour all who are opposed to them. This is what is called an election by acclamation. But do we come here to do any thing by acclamation? That was given as a sly way of accounting for the want of beneficial results from that council. It was a kind of Reform Convention for the Roman Catholic Church. And the Holy Father assigns as a reason why they failed, that they did too many things by acclamation. But we (said Mr. MERRILL) came not here to accomplish our objects in that way. We, on the contrary, were sent by the people to examine the fundamental laws of the State, and to improve them should we deem them capable of being improved. We come here, then, without any occasion for acclamation. The great principles of human liberty are already established, and the questions before us are mainly, whether those principles can be carried out further with increased advantages to the people, and whether they can be rendered better calculated to guard our rights and privileges from encroachment in future. These are the questions which will come before us. There is, therefore, I apprehend, no reason why we should do anything without the calmest reflection and deliberation. Mr. Merrill objected to changing the rule, as it was one by which the House of Representatives was governed, not only because it would show a want of confidence in the President, but because it would delay the business of the Convention, and be productive of no benefit whatever.

Mr. PORTER, of Northampton, said that gentlemen had entirely overlooked the question pending before the Convention, and gone into matters wholly irrelevant and totally unconnected with it. How delegates had voted in the organization of this body, and by what motives they had been actuated, had nothing whatever to do with the matter. The question which they had now to decide was—"was it expedient to change the practice of the House of Representatives of Pennsylvania, which vested the presiding officer with the power of appointing the committees?" If the Convention had no confidence in the President, then it might be well to do so; but he believed, however much some gentlemen might differ in politics, that they had the greatest confidence in his purity of motive and integrity. (He Mr. P.) would therefore vote against the amendment.

Mr. BROWN, of Philadelphia, said that he should vote for the amendment of the gentleman from Montgomery, not however because he lack-



ed any confidence in the integrity of the President, and the disinterested and impartial manner in which he would appoint the committees, but because he deemed it proper that he should show to the people of Pennsylvania how extremely well drilled and disciplined, were gentlemen of the opposition. He could not agree with his colleague (Mr INGERSOLL) in deploring that he had found delegates going together, *en masse*, from the very moment that they had assembled here. On the contrary, he rejoiced with the gentleman from Adams, (Mr. STEVENS) that such had been the evidence to the people of this State, that an organization of this character did exist, and that men had been true to the principles upon which they were elected. And, he wished it to be understood—he wished it to go to the people—that these gentlemen of the opposition did not go for the “spoils of office,” but went for the country, the Constitution and the laws; and that, it was for these and these alone, they contended. No! they did not go for the “spoils of office”! They voted merely for Door-keepers, assistant Door-Keepers, Sergeant-at-Arms, and every other officer connected with the Convention. Yes, he desired this fact to go forth to the people that a combination did exist here among the opposition, and every fraction of it, which, out of doors, do not act in accordance with each other, but are as antipodes. The gentleman (Mr. STEVENS) had spoken of one of the friends of his party having voted on our side for Sergeant-at-Arms, which he seemed to think he ought not to have done. A disposition had been manifested to act in a spirit of conciliation with gentlemen on the other side, and a proposition was accordingly made, that there should be a Sergeant-at-Arms, and an assistant Sergeant-at-Arms, but he opposed the motion, and thus disturbed that spirit of peace and harmony which his colleague (Mr. INGERSOLL) wished, and desired to see, prevail. Mr. BROWN would vote for the proposition of the gentleman from Montgomery, as he had already said. But, whilst he declared that he should do so, he wished it to be known that there was a party in this Convention, who were acting together as one man.

Mr. STEVENS asked for the yeas and nays.

Mr. M'CAHEN, of Philadelphia county, observed that he should vote against the amendment of the gentleman from Montgomery, because he believed that the party to which he belonged, would gain nothing by it.—He did not complain of the majority for their votes. Indeed, he was glad to see men come up to their work as they had done—for it was an indication of a proper spirit of mind. Party was the light and essence of our country. He believed that the party to which he was attached were in favor of the best principles of government, and those which were best calculated to promote the happiness of the people; and he was glad to be ranged in party lines; nor did he feel the slightest repugnance in acknowledging that he was a party man. It was his determination to do nothing that should bring reproach on the party; but he would sustain their measures so far at least as he believed them to be for the good of the community.

The PRESIDENT asked leave to say, that he considers himself placed in the chair to perform a duty, and not to indulge in any personal feeling whatever; and, when a motion is made—as has been done by the member from Montgomery—which is within the rules of order, it will give him pleasure to put the question and announce the result to the Conven-

tion. And he will not, upon this or any other occasion, hold, as personal to himself, any thing that is said within the rules of order. For, if he were to do so, it would be a manifest trespass on the rights of every member. Indeed, he had not felt, since he had the honor to preside over the body, any thing that was personal to himself, or which ought to excite, or which had excited, in his breast, the slightest emotion.

The question was then taken, and the motion to amend was decided in the negative, the vote being as follows:

YEAS—Messrs. Brown, of Philadelphia, Cummin, Doran, Miller, Sterigere.—5.

NAYS—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Butler, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncy, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crawford, Crum, Cunningham, Curll, Darlington, Darrah, Denny, Dickey, Dickerson, Dillinger, Donagan, Donnell, Dunlop, Earle, Farrelly, Fleming, Forward, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Hamlin, Harris, Hastings, Hayhurst, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Houpt, Hyde, Ingersoll, Jenks, Keim, Kennedy, Kerr, Konigmacher, Krebs, Long, Lyons, Maclay, Magee, Mann, Martin, M'Caben, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Myers, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Purviance, Reigart, Read, Riter, Ritter, Rogers, Royer, Russell, Saeger, Scott, Sellers, Seltzer, Serrill, Schetz, Shellito, Sill, Smyth, Snively, Stevens, Stickel, Swetland, Taggart, Thomas, Todd, Weaver, Weidman, White, Woodward, Young, Sergeant, *President*.—126.

The rule was then adopted.

The sixth, seventh and eighth rules were severally considered and adopted.

The ninth rule being under consideration,

MR. STERIGERE, of Montgomery, moved to amend the same by striking therefrom, in the fifth line, the words "but without debate", which was decided in the negative.

MR. STERIGERE, moved to amend the rule by striking therefrom, the words "and if the case require it, the delegate so called to order, shall be liable to the censure of the Convention", which was decided in the negative: and the rule was adopted.

The tenth, eleventh, twelfth, thirteenth and fourteenth rules were severally considered and adopted.

The fifteenth rule being under consideration, MR. KEIM, of Berks, moved to amend the same by striking therefrom the words "not appear on", and inserting in lieu thereof the words "be expunged from".

MR. STEVENS, thought that it would answer the purpose, to have it read "*black lines shall be drawn around it, and the word EXPUNGE be written across it*".

MR. KEIM, rose and said: I beg leave to say that we have been told this morning that the rules are but a compilation of those that have heretofore governed the Legislature of this Commonwealth; and that, in their compilation, the sense was preserved, except so far as it was necessary it should be altered, to adapt the rules to the present Convention. By a reference to the original rules it will be found that under the head of rule "fifteen" the word expunged is used—"And if withdrawn the proceedings had thereon, shall be expunged from the journal". Sir, it is requisite that in the use of words, at least where the sense is not impaired, we should choose those which best express our meaning, and particularly

where the sense is more forcible and cogent. There is no reason then, in my opinion, why the word "expunged" made use of in the original rule, should not be employed in *this* rule, instead of the words "shall not appear", which is not so expressive a term. The word "expunged" is one of high authority. It is known to the highest deliberative assemblies upon the face of the earth. I do not wish to be very fastidious, in the use of terms, nor do I wish to be hypercritical, (to quote the phrase used by a gentleman in the course of the morning) but when there is a distinction, it becomes us to receive the amendment in the spirit in which it was offered. I do not say that we should reach the gentlemen of the "black line" party; but all I do mean to say is, that no conservative interest can be injured by the introduction of the word "expunged" into the rule, and certainly no other interest can object thereto, as the word is too valuable to them to be relinquished. We do owe to the people of this Commonwealth a Constitution well constructed, and it is equally certain that it is due to the republic of letters, that, at least in our primary organization we should use such diction as will unequivocally express our sentiments. It is with this view that I have made the motion. And, if the gentleman from Adams (Mr. STEVENS) chooses to take it in a political aspect, he is welcome to do so.

Mr. PORTER, of Northampton, thought that nothing could be expunged from the journal until it was placed upon it. Therefore, to use the word "expunged", to blot out a matter which was not in existence, would not be right. He entertained the opinion that it would be better to let the rule stand as it existed in the House of Representatives. He confessed that if the terms had been equally applicable, he would still have preferred the term used in the rule. He did not wish the term "expunge" to be brought into this body. Indeed he was sorry that the gentleman from Berks had brought the "black line" process before the Convention.

Mr. BROWN, of Philadelphia, remarked, that supposing a motion to be made to-day, it would be found on the journal to-morrow, (unless it was previously withdrawn), and then it could not be taken from it. If a debate was to be protracted for a number of days, and the journals should daily be made up, a motion must be expunged, if it was not to appear on the journal. He thought, then, that the word "expunge" was the most appropriate word that could be used.

Mr. DUNLOP, of Franklin, said that he should like to hear the opinion of the late President of the Senate, (Mr. CUNNINGHAM) who was a member of the Convention.

Mr. STERIGERE, of Montgomery, said, that he cared very little as to which of the terms should be used, "shall not appear", or "expunged". It was the duty of the Secretary to make a memorandum of what passed here, before entering the particulars on his journal. The mere fact of copying it from one piece of paper, and placing them on another, was not, in his (Mr. STERIGERE's) opinion, changing its character at all. If a motion, or anything else, must necessarily be voted down, we must, of course, expunge it, to prevent it being printed. He, therefore, conceived the term "expunged", to be more appropriate than "shall not appear". And he concurred with the gentleman from Berks, (Mr. KEIM) that it had been used in legislative proceedings for some very good reason. He thought the closer we adhered to our meaning in the selection of words to

express it, the better, and therefore as he had already said, he preferred the word "expunged."

Mr. CUNNINGHAM, of Mercer, observed that the remarks of the gentleman from Montgomery were made upon an incorrect interpretation of the rule. The minutes of the Secretary did not form a journal immediately at the time they were made. If a motion had been made by a member, and was afterwards withdrawn by him, there would then be no journal as to that matter. The duty of the Secretary was to keep a journal of the proceedings of the Convention, and not of any individual in particular, and if a motion were made by a member and not withdrawn, it would be entered. He (Mr. CUNNINGHAM), thought that to use the word "expunged" instead of "shall not appear", was incorrect.

Mr. STERIGERE, of Montgomery, said that it might happen that no question would be taken on a motion for a week. And was it to be supposed that the Secretary was to keep it in his memory for that length of time, or even, perhaps, longer? No, his business was to note down what passed, and to preserve the motion on the journal, until some decision of the Convention was had upon it. If, however, after a week's debate, the mover should think proper to withdraw his motion, then, in the language of the rule, as proposed to be amended, "it shall be expunged".

Mr. CUNNINGHAM, of Mercer, said that the gentleman argued as if there was a journal *before* there was any decision on the motion. The rule was—that after the adjournment, every thing that had been noted by the Secretary, or Clerk, was to be a journal, and nothing could be withdrawn. He apprehended that the objections which had been made to the rule, did not meet the case—for it was the universal practice that after the body had adjourned, the paper could not then be withdrawn.

Mr. CLARKE, of Indiana, suggested that the rule be so altered that no motion should be withdrawn after an adjournment.

Mr. STERIGERE, of Montgomery, moved to amend the amendment by adding these words—"provided the same be withdrawn before the adjournment"; which was not agreed to.

Mr. CLARKE, of Indiana, moved to amend the rule by adding after the word "decision" the words "or adjournment", then the word "expunged" would be got rid of.

Mr. MARTIN, of Philadelphia, hoped that the amendment would be adopted. He could see no objection to the word "expunged". It was the most expressive word, and if it best conveyed the meaning intended, it ought to be used in preference to the other term. He would not even object to the word "morganize" if it expressed the meaning better.

Mr. BAYNE, of Allegheny, said, the words "shall not appear" were very inappropriate, and that the word "expunged" was of high authority and most excellently conveyed the meaning that was intended.

Mr. DONAGAN, of Berks, had no particular objection to the word "expunged" as some gentlemen seem to have. He asked for the yeas and nays.

Mr. BIDDLE, of Philadelphia, remarked, that the proposition of the gentleman from Indiana was not the question before the Convention at that time. He presumed, however, that should the amendment really depending, be negatived, the gentleman (Mr. CLARKE) would approve it. He

(Mr. BIDDLE) hoped that the desire was mutual among all the members of the body to arrive at some conclusion which would meet, as nearly as possible, the wishes of all.

Mr. CLARKE, of Indiana, withdrew his amendment for the present.

Mr. CURLL, of Armstrong, entertained the opinion that the word "expunged" was a very proper term. He therefore should vote for that amendment.

Mr. MERRILL, of Union, wished to know whether a motion could be withdrawn a week after it had been made, and after the journal had been published, that was, by leaving the entry made in the *original* journal crossed out. He could not understand how that could be done. But, if that was so, then the word "expunged" was the proper word.

Mr. STERIGERE, of Montgomery, would turn the gentleman's attention to the words of the rule, for an answer.

Mr. MERRILL, of Union, thought a motion, unless disposed off before an adjournment, was laid upon the table.

Mr. BELL, of Chester, understood the argument to be, that when a motion only was made, it was a part of the journal, and could not be got rid of, unless by being expunged.

The question was then taken, and the motion was decided in the negative, by the following vote:

**YEAS**—Messrs. Brown, of Philadelphia, Cleavinger, Curll, Darrah, Donagan, Doran, Farrelly, Fleming, Foulkrod, Hamlin, High, Ingersoll, Keim, Mann, Martin, M'Cahen, Miller, Overfield, Ritter, Sellers, Scheetz, Sterigere, Woodward.—23.

**NAYS**—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crawford, Crum, Cummin, Cunningham, Darlington, Denny, Dickey, Dickerson, Dillinger, Donnell, Dunlop, Earle, Forward, Fry, Fuller, Gamble, Gearhart, Gilmore, Grenell, Harris, Hastings, Hayhurst, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Hyde, Jenks, Kennedy, Kerr, Konigmacher, Krebs, Long, Lyons, Maclay, Magee, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Myers, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Purviance, Reigart, Rogers, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Shellito, Sill, Smyth, Snively, Stevens, Stickel, Swetland, Taggart, Thomas, Todd, Weaver, Weidman, White, Young, Sergeant, *President*—105.

Mr. CLARKE, of Indiana, renewed his motion to amend, and after a few words from Mr. STERIGERE, Mr. PORTER, and Mr. MERRILL, again withdrew it.

Mr. PORTER, of Northampton, moved to amend the rule by inserting after the word "withdrawn", the words "before adjournment it"; which was agreed to; and the rule as amended was adopted.

The seventeenth rule being under consideration.

Mr. STERIGERE, of Montgomery, said that he was opposed to that part of the rule relative to the "previous question". In the Senate of the United States, there was no such restriction and he thought that in a body like this, particularly, the utmost latitude should be allowed for debate and no restriction of this sort ought to be imposed, he would therefore move that it be stricken out.

Mr. STERIGERE then moved to amend the rule by striking out the words, "for the previous question, namely; shall the main question be now put"?



Mr. PORTER, of Northampton, remarked that the committee who drafted the rules had, it would be observed, provided that the previous question should not be called while a member was on the floor. Now this was an alteration in the rule as it exists in the House of Representatives in Pennsylvania. They had provided, too, that every amendment to the Constitution must be considered in committee of the whole; and every delegate was allowed the privilege of addressing the committee as often as he pleased. Now, he thought that it would be penalty enough inflicted on the members of the Convention to be compelled to sit here and listen to the great number of speeches that would be made in committee, and perhaps as many more when the proposition should come up for a second reading in the Convention. If that was not latitude in debate, then he was at a loss to know what was.

Mr. STERIGERE observed that with respect to the alteration of which the gentleman from Northampton had spoken as having been in the rules of the House of Representatives, he (Mr. STERIGERE) must say, that for the last eight years that he had been a member of the Legislature he had not known an instance of a gentleman being interrupted by a call for the previous question. That was not allowed. It was possible that some gentleman might consume a large portion of the time of the Convention in making speeches, but that could not be helped. His object was to give every one an opportunity of expressing his views—therefore it was he objected to the previous question being called.

Mr. INGERSOLL, of Philadelphia, said he was altogether indifferent whether the motion to strike out should prevail, or not.

Mr. CHAMBERS, of Franklin, hoped the motion to strike out would not prevail. The rule, if sometimes abused, had been found to be very salutary. It had become the standing rule of all deliberative bodies. It was absolutely necessary, after a certain time had been allowed for debate, that an end should be put to it. When so much had been said on a subject that they could receive no further light on it, why should they be compelled to sit and listen to what was being said, instead of coming to a vote on the matter? It was the only rule which would put an end to useless discussion. Doubtless there would be a disposition to talk here, and the application of it might become necessary, and he was willing to trust the proper exercise of it to the Convention. The Legislature of this Commonwealth had adopted the rule and found it to be a useful one, and so would this convention, in his opinion.

The question being taken on the adoption of the amendment, it was negatived; and the question then recurring on the adoption of the rule, it was agreed to.

The eighteenth rule being under consideration,

Mr. MERRILL, of Union, moved to amend the same by striking out "eighteen delegates", and inserting in lieu thereof "one third of the delegates present".

Mr. HESTER, of Lancaster, moved to amend the amendment by striking therefrom "one third", and inserting in lieu thereof "a majority".

The amendment to the amendment being under consideration,

Mr. PURVANCE, of Butler, moved that the Convention do now adjourn; which was decided in the negative.

The amendment to the amendment was then disagreed to.



Mr. EARLE, of Philadelphia, moved to amend the amendment by striking therefrom the words, "one third", and inserting in lieu thereof the word "forty"; which was decided in the negative.

Mr. BELL, of Chester, moved to amend the same by striking therefrom the words "one third", and inserting in lieu thereof, the word "thirty": which was decided in the negative.

The amendment moved by Mr. MERRILL, was then agreed to: and the rule was adopted.

The nineteenth rule being under consideration,

Mr. STERIGERE, of Montgomery, moved to amend the same by striking from the end thereof the following words, "and within six days, exclusive of Sundays, after the decision": which was decided in the negative; and the rule was adopted.

Mr. CURLL moved that the Convention do now adjourn; which was decided in the negative.

The twentieth, twenty-first, twenty-second, twenty-third, and twenty-fourth rules were severally considered and adopted.

The twenty-fifth rule being under consideration,

Mr. BROWN, of Philadelphia, moved to amend it, so as to provide that minutes shall be kept of the proceedings in committee of the whole.

Mr. CLARKE, of Indiana, said that in the Convention of '90, a journal was kept of the proceedings in committee of the whole. He hoped that we should follow that course. He had thought of offering this amendment, viz: "a separate journal shall be kept of the proceedings had in committee of the whole".

Mr. STEVENS, of Adams, remarked that, inasmuch as propositions, which might be made in committee of the whole, could be renewed in the Convention, the consequence would follow that it would be stated *twice* on the journal. The yeas and nays, for instance, if taken on an amendment offered in committee, and afterwards in the Convention, would be found recorded twice.

Mr. CHAMBERS, of Franklin, said the amendment of the gentleman (Mr. BROWN) required nothing more to be done than would be done independent of it. His intention was to insert nothing on the journal unless adopted: all amendments that might be voted down would not, of course, appear. The minutes that would be kept of what transpired in committee of the whole, would be known as such: And if the Convention chose to annex them to the journal, they could do so, as was done formerly.

Mr. DUNLOP, of Franklin, said that the gentleman's argument amounted to nothing more than was contended for by the gentleman from Adams.

Mr. MERRILL, of Union, expressed his hope that the yeas and nays would not be demanded in committee of the whole.

Mr. BROWN, of Philadelphia, remarked that this Convention ought to follow the example which was set them by the previous one. The Secretary would keep the minutes of what was done in committee of the whole. They should then be printed, and either appended to the journal, or made to form a separate volume. He had always opposed going into committee of the whole; but, for the sake of saving the time of the Convention, he would withdraw his opposition.

Mr. MEREDITH, of Philadelphia, said that it was the duty of every committee to keep minutes of their proceedings, and the Convention could

at any time demand them—the Convention being in committee of the whole, it would be the duty of their Secretary to act as clerk. He was afraid that if the proposed clause were inserted, it might seem to countenance the idea that other committees were not obliged to keep minutes.—He therefore hoped that the amendment would not be adopted.

Mr. BROWN, of Philadelphia, was glad that the gentleman had given this information, for he (Mr. BROWN) was not aware that that was the rule. He would ask the presiding officer, if it was usual for a Secretary of a Convention, when in committee of the whole, to act as its clerk, and that the minutes taken in committee would be at the disposal of the Convention? If such was the case, why he had nothing further to say on the subject.

The PRESIDENT: The Chair understands that it has not been the usage to keep minutes while in committee of the whole; but if so directed by the house, it will be done. And those minutes, as has been already remarked, will be subject to the disposition of the house. The practice heretofore does not act as any restraint upon us, and if it be the wish of the Convention, the minutes of what is done in committee of the whole, shall be taken.

Mr. MEREDITH intimated that, at the proper time, he would introduce a rule in relation to the keeping of the minutes.

Mr. BROWN, of Philadelphia, withdrew his amendment.

The question being taken on the adoption of the rule, it was agreed to.

The twenty-sixth rule being under consideration,

Mr. EARLE, moved to postpone the further consideration of it for the present, and that when the Convention adjourns, it will adjourn to meet again this afternoon at four o'clock, for the purpose of considering this and the remaining rules yet unconsidered: which was agreed to.

Adjourned until four o'clock this afternoon.

### AFTERNOON SESSION.

The Convention proceeded to the consideration of the unfinished business of the morning, being the consideration of the twenty-sixth rule.

Mr. MEREDITH, of Philadelphia, moved to postpone the consideration of this rule for the purpose of introducing a new rule to be called rule 26th, in the following words:

“Minutes shall be kept of the proceedings of the committee of the whole, and all other committees, and such minutes shall be laid on the table of the Convention when so ordered”.

The amendment being under consideration,

Mr. CLARKE, of Indiana, moved to amend the same by adding to it “and when in committee of the whole the yeas and nays may be called at the desire of any ten members and entered on the minutes thereof”.

Mr. CLARKE, said he found upon referring to the proceedings of the Convention of 1789-90 that in adopting their rules they had a provision of this kind: Their ninth rule reads as follows: “The yeas and nays shall be called and entered on the minutes of the House, or of the committee of the whole House, when any member requires it”. He also found, on looking through the proceedings of that body, the yeas and nays were frequently called and entered on the minutes. — Mr.

**CLARKE** would state his reasons for making this motion in a very few words. In the committee of the whole there would be no restriction from debate, and he should consider it the best time for a man to record his vote, immediately after the debate was closed, and the taking of the yeas and nays would not consume much time. Besides, he thought if the yeas and nays were taken in committee of the whole, they would not be again asked for in Convention, so that the time lost in calling them in committee would be saved in the Convention. He thought if they were to keep minutes of their proceedings in committee of the whole, to be appended to the minutes of the Convention it would be but fair and proper that the votes should be entered on those minutes so that the people might know the sentiments of their representatives at the time when the discussion of a subject should have just been closed. It was true that in the course of the week the yeas and nays had been frequently called, and in his opinion, at times unnecessarily, so much so, no doubt, that some gentlemen might be afraid that if they could be called in committee of the whole much delay might be occasioned. But in the light he viewed it he thought it would even be a saving of time and in conformity to the practice of former Conventions.

**Mr. MEREDITH** would have accepted this as a modification, but that he was fearful if the yeas and nays were permitted to be called in committee of the whole, they would frequently be called both there and in the Convention. He had, however, so much respect for the views of the gentleman from Indiana, (**Mr. CLARKE**) that he would make no opposition to the amendment.

**Mr. PORTER**, of Northampton, trusted this amendment might not be adopted, because, as he reviewed the matter, it was the right of any two members to call for the yeas and nays in committee of the whole, and have them entered on the minutes without any rule. In the celebrated *Olmstead* case, as no doubt some gentlemen here would recollect, it was solemnly decided that it was the right of any two members to have the roll called. He did not know what the practice now was, but he recollected the circumstances of this case, and that it was then decided the yeas and nays should be called in committee of the whole.

**Mr. CLARKE**, of Indiana, said if he was certain that this would be the understanding in the committee of the whole he should withdraw his amendment; but he knew the practice in the Legislature had not been to call the yeas and nays in committee of the whole. He had inserted in the amendment ten members so that they might not be troubled with calls of the yeas and nays on questions of minor importance, but only when they should be desired by ten members, and he apprehended when that number of delegates made such a call it would be on a subject of some importance in itself. He only desired an opportunity of recording his vote when important subjects were before the committee, and when ten men united in calling for the yeas and nays, the probability was that the subject would be of importance. If this motion should meet the approbation of the Convention he should be pleased, but if not he would be satisfied.

**Mr. BANKS**, of Mifflin, said it would give him pleasure to agree with the gentleman from Indiana in this Convention on all occasions, but so far as he was able to judge they would gain nothing by this amendment. He considered that when a proposition would be brought forward in com-

mittee of the whole and voted down by yeas and nays, the mover or supporters of it would again call for the yeas and nays in the Convention, so that they would have to be taken a second time without any beneficial result, and with much loss of time. He would suggest one thing, which, to his mind, was satisfactory, that the proposition should not be agreed to. Suppose an inexperienced member to be in the chair, and some few of the delegates desiring to tease him, they might bring forward proposition after proposition, and call for the yeas and nays on each, consuming the time of the Convention for hours together, and this he considered should be guarded against.

Mr. DENNY, of Allegheny, would go for this proposition with pleasure, if he thought any good could result from it, or that it would facilitate the business of the Convention, but it seemed to him that it would rather have a tendency to embarrass than facilitate the business of the body. It would be rendering the labor of the Secretary much more arduous, and encumbering the journal with double sets of yeas and nays on many propositions. He found, on looking over the minutes of the Convention of '89—'90, that this proposition was not so well received there, as it was only carried by the casting vote of the Chair. It appeared by the proceedings of that body that they had made the experiment, having, in the first place, adopted the rule as now proposed, and afterwards moved a reconsideration, which motion to reconsider was only lost by the casting vote of the President. He thought, in practice, they might find this rule inconvenient, because it might be that there would sometimes be such a diversity of opinion among the members that many propositions would be submitted to the committee hastily, and the mover desiring to have the yeas and nays, a few of his friends would rise, and by this means the session of the Convention might be very considerably prolonged. He had no objection to calling the yeas and nays in the Convention, but he thought they would find it inconvenient to have them in committee of the whole, and that it might lengthen the session a month or more.

Mr. FULLER, of Fayette, was opposed to this amendment. In committee of the whole it was designed to have an unreserved discussion of topics—to have the opinions of others—to give opinions, and, if convinced by argument, to change. It might so happen that a delegate would give a vote in committee which he would have reason to change afterwards, when the subject had been more fully discussed; and he did not wish to subject delegates to the charge of inconsistency in recording their votes, for a proposition in committee, and against it in the Convention.

Mr. EARLE, of Philadelphia, was of opinion that they could have the yeas and nays in committee of the whole by the rules as they now stood, without the amendment, on the mere call of two members; therefore those gentlemen who wished to restrain this power should vote for the amendment of the gentleman from Indiana. If the amendment was not adopted he should claim the privilege of calling the yeas and nays in committee, if any one would second his views.

Mr. BELL, of Chester, thought the gentleman from Northampton was mistaken in relation to the rule of the House on this subject, as it did not provide for calling the yeas and nays in committee of the whole. He did not so understand the rule.

Mr. PORTER, of Northampton, had only referred to the celebrated Okm-

stead case, in which the yeas and nays had been called in committee of the whole. He did not know whether it was the practice to do so now in the Legislature. There were, however, several gentlemen of great experience in the house, and he hoped they would inform the Convention of the practice existing in the legislature.

Mr. M'SHERRY, of Adams, said it had been the practice, he believed, during one session of the Legislature, which was some years back, perhaps as far back as 1810, he could not be particular as to time, but since that he had never known the practice to exist.

Mr. MANN, of Montgomery, said in the course of his experience in the Legislature he had never known a case in which the yeas and nays had been called in committee of the whole. He had known the roll to be called for the purpose of ascertaining whether there was a quorum present, but he never knew of the yeas and nays being called. He thought, however, it might be proper enough for the Convention to have the yeas and nays in committee of the whole, and he would suggest to the gentleman from Indiana, that if he would insert twenty instead of ten members, it might not be so liable to objection, as then they would certainly not be called on frivolous questions.

Mr. M'SHERRY thought it was likely the gentleman who had just taken his seat was correct in what he had stated. It might have been the roll, instead of the yeas and nays, which was called over.

Mr. CLARKE, then modified his motion by inserting twenty members instead of ten, which was agreed to, and the twenty-sixth rule, as amended, was adopted.

The twenty-sixth, now the twenty-seventh, rule was considered and adopted.

The twenty-seventh rule was also considered and adopted.

The twenty-eighth rule being under consideration as follows:

28. "The following standing committees shall be appointed:

1. A committee on the 1st Article of the Constitution.
2. A committee on the 2d Article of the Constitution.
3. A committee on the 3d Article of the Constitution.
4. A committee on the 4th Article of the Constitution.
5. A committee on the 5th Article of the Constitution.
6. A committee on the 6th Article of the Constitution.
7. A committee on the 7th Article of the Constitution.
8. A committee on the 8th Article of the Constitution.
9. A committee on the 9th Article of the Constitution.
10. A committee on the subject of further amendments of the Constitution.—Each committee to consist of nine members.
11. A committee of Accounts to consist of five members.

And it shall be the duty of the said several committees to take into consideration the said several Articles, and the subjects, matters and things therein contained, and all resolutions touching the same referred to them by the Convention, and to report thereon"—

Mr. INGERSOLL, of Philadelphia, moved to amend the same by inserting between the ninth and tenth lines the following, viz:

"Eleventh, a committee on the currency and on corporations".

"Twelfth, a committee on the internal improvements, highways and eminent domain of the state".

Mr. INGERSOLL then addressed the Chair in support of his proposition. He commenced his remarks by saying that the committees which had already been appointed under this rule, were necessary and proper enough; but, nevertheless, there were other subjects of the highest importance, which had grown up since the adoption of the Constitution, and on which he desired to learn the opinions of this Convention.

The States of this Union, since the adoption of the present Constitution, were authorized to make, and accordingly had made, at least nine parts in ten, or rather more than that, of the currency of the country to consist of paper. The currency of the land was of the greatest importance. It was the very life-blood of the community. He would refrain from the expression of any opinion one way or another at this time in regard to it. But every member of the body must perceive that it is a subject of vast importance which had grown up since the present Constitution went into effect; and therefore it was, he thought, as well worthy as any other subject, of being referred to a committee. The currency was made by corporations, and those corporations had brought others into existence. This, then, was another subject which was deserving of the great and serious deliberation of the Convention. He had now given the reasons why he desired the subjects of the currency and of corporations referred to standing committees.

With regard to the subject of Internal Improvement, highways, and the eminent domain of the State, he would say a few words. The Internal Improvements of the State of Pennsylvania had, so it appeared from the report of the Treasurer of the State, cost something under \$25,000,000. This was, undoubtedly, an immense debt. On the other hand, he found by the same paper, that the improvements were valued by the same officer, at something less than twenty-two millions of dollars. The subject, therefore, of Internal Improvements, was one of the greatest magnitude.—When the Constitution of New York was revised in 1830, the Convention made the subject of the Internal Improvements of that State (and it seemed to him with great forecast and propriety) a matter of Constitutional provision. He did not pretend to say now what views he entertained on the subject. It was sufficient for him to state, and he did state, that he flattered himself that every member of the body must be satisfied that these were subjects which commended themselves to their serious consideration.

With respect to highways and the eminent domain.—The rivers Schuylkill, Lehigh, Monongahela, Ponlore and some others had, by acts of the Legislature, become private property. All those streams had been conveyed to corporations; and there was no reason, as every body must be aware, why they should not be. If an individual, or an association of individuals, possess the means of making improvements, they had, at present, an opportunity of purchasing rivers, and carrying their objects into effect. Besides the streams he had already enumerated, there were others of as great value which might be made the property of private persons.—He would, at this time, refrain from expressing his opinion on the subject—which subject was one of immense public importance—and therefore it was that he desired the reference of it to a standing committee.

Mr. CHAMBERS, of Franklin, said that the committee who had reported the rules which were now under the consideration of the Convention,



were of opinion that the business of the body would be much facilitated, if, when subjects in the form of memorials or resolutions were presented, they should be referred to the regular standing committees instead of being sent to select committees. Because, it might so happen, that the subjects, or branches of those subjects were, at that moment, before one or other of the committees. It was necessary, then, in order to prevent confusion, that this course only, which he contended for, should be pursued. The committee entertained the opinion that inasmuch as they were confined to say what amendment or amendments should be proposed to the Constitution, that they could not err if the whole subject matter of that Constitution, as subdivided as it was, should be referred to those standing committees. Whether there were other subjects which were not to be left to ordinary legislation, and which required consideration, and the action of the Convention, it was not for the committee to decide: but it remained with the Convention to say what more should be done. On the part of the committee he could say, that they were not at all tenacious as to the number of committees which the Convention might think proper to appoint, or of the order in which they were to report. All that he had to say was, that he considered it unnecessary that there should be two committees upon the same subject, as they might injure the symmetry of the Constitution as a whole.

Mr. FORWARD, of Allegheny, said that it was perfectly apparent to him that the subject of the rights and privileges of corporations would come before one of the committees now authorized to consider and report on one of the articles of the Constitution.

[Mr. INGERSOLL said (in an under tone) "it is a mistake."]

Mr. F. proceeded. The subject would certainly be before one of the committees—the committee on the article relative to legislative powers. Well, as the subject of the currency was intimately connected with that of corporations, it could undergo their consideration. He could not, therefore, agree to vote for raising a separate committee on that subject. But, as to the other—he alluded to internal improvements, highways, and the eminent domain—he thought it did not fall appropriately within the range of the committees already raised. He would, on that account, be glad to see a committee raised on that important subject.

Mr. INGERSOLL said that the corporations meant by the article in the Constitution, were for the furtherance of science and learning, and other objects. The article in question was the seventh, and the first section of which had reference to the establishment of public schools, the second, to seminaries of learning, and the third set forth that "the rights, privileges, immunities, and estate of religious societies and corporate bodies shall remain as if the Constitution of this State had not been altered or amended". It was perfectly obvious that this was a mere change against oppression, against an infringement of their rights, or any embarrassment of that sort. Now, he would submit to this body whether the committee charged with the seventh article, which embraced the subjects of public schools, of seminaries of learning, and of religious societies, would not have quite as much as any committee could attend to, if they did their duty well in mastering these all-important subjects? They were of vital importance, and embrace a wide field of investigation. Important as were the corporations which he had named, and anxious as he was to prevent disputes or angry

feeling of any kind, there were other corporations of a different character which claimed his attention, and ought to do that of the Convention: he meant those which now regulate the currency. Would any man deny that the currency of the country was the life-blood of society? And, if the currency was diseased, the whole body politic was affected. What, he would ask, was the state of the currency at this moment? Was not the Atlantic board—were not the whole of the sea-ports of the United States embarrassed and distressed with the difficulties proceeding merely from a disorganised state of the currency? Were there not thousands wending their way from the northern cities to the distant west in search of employment? Were there not, in short, at this moment, great and distracting difficulties and embarrassments prevailing throughout a large portion of this country, owing to the deranged state of the currency?—Undoubtedly there were. Could there be a more important subject than this? And was it proper that it should be put into the hands of a committee, whose duty it was to take care only of matters of secondary importance—the education of the people of the country? He appealed to the good sense of the gentleman from Allegheny—he appealed to every gentleman present—whether each of the very important subjects he had brought forward, did not demand, and were not worthy of, a distinct standing committee? The subject of banks was all of the greatest importance that could be brought under their consideration, for they supplied the country with a circulating medium. He had cast his eye through the acts of the legislature of Pennsylvania, passed at the session before the last—twelve months ago—and he spoke within the bounds of truth when he stated, that not less than two-thirds of them were acts of incorporation for banks. In Philadelphia and Pittsburgh there had even been taverns incorporated! There was a bank charter in the city of Philadelphia in full force; and it was well known in the Senate of Pennsylvania, that an honorable and distinguished senator, now in his (Mr. Ingersoll's) eye, had within a year or two, so said the newspapers, tried to get himself incorporated.

There was no end, in short, to the prevalence of this spirit. He would say nothing in regard to the character of this spirit—whether it was a good or a bad one. But he would say that it was a predominating spirit, and it became those who were here assembled to make amendments to the Constitution, to inquire whether some check ought not to be introduced to prevent the Legislature from creating these corporations. He trusted that the Convention would do something in regard to this subject. He should say nothing further on it at present, except to ask for the yeas and nays.

Mr. DORAN, of Philadelphia: I would inquire whether it would be in order to make a motion that the present number of committees be increased?

The PRESIDENT: Not while the present question is pending.

Mr. RUSSELL, of Bedford: I want to ask for a division of the question, so that the amendment shall end with the word “corporations”.

Mr. CURLL: Would it be in order to move an amendment?

The PRESIDENT: It would be in order to offer an amendment, but not to a resolution.

Mr. INGERSOLL: I have not the least objection to a division.

**Mr. STERIGERE**, of Montgomery, said that after what had passed that morning, he entertained but little hopes of any alteration being made in the rule. He regretted that the gentleman from Philadelphia county had not brought forward his resolutions relative to the several committees, entire. He regarded the division of nine committees on the nine articles of the Constitution, as neither proper nor natural. He would ask what in the name of common sense was the use of raising a standing committee on the eighth article of the Constitution, which related to the qualification of officers by oath or affirmation? Was there a man in the Commonwealth that wanted any amendment to be made to it? A matter, then, which was uncomplained of, was certainly unworthy of any consideration at all; therefore, it was altogether unnecessary to send the article to a standing committee. He conceived that there was good reason to complain of the manner in which the labor pertaining to the several committees was divided. On some, the duties were very arduous, while on others they were extremely light. He repeated his regret in regard to the resolutions of the gentleman from Philadelphia county, not having all been introduced at the same time, and said that he should be satisfied with whatever course the Convention might think proper to pursue under existing circumstances.

**Mr. INGERSOLL** said that the opposition of the gentleman from Allegheny had frightened him, for he well knew the weight and influence which that gentleman had in this body. He (Mr. I.) saw no disposition, however, on the part of other gentlemen to oppose the proposition. He would withdraw his call for the yeas and nays.

**Mr. EARLE**, of Philadelphia, would suggest to the mover of the resolution that the number of standing committees should be fixed at thirteen.

**Mr. INGERSOLL** signified his assent.

**Mr. FORWARD** said that he was satisfied, before the gentleman from the county of Philadelphia had risen in his place to speak on the subject, of the necessity of having an ample investigation made into the several subjects which had been named by him, and of the Currency particularly. No man could entertain a doubt as to its being a momentous subject.—The only question with him was, whether the committee who had charge of the seventh article could give their attention to this also. Because, if they could, he should be opposed to raising a committee specially for that purpose. But, if not, why let one be raised. And, he would say further, that the subject of corporations, and banks, particularly, should undergo deep deliberation.

**Mr. DICKEY**, of Beaver, regarded the division of the committees as reported by the committee on rules, both natural and proper. They embraced every subject, except what was foreign to every Constitution. He was opposed, at present, to vote for the proposition of the gentleman, (Mr. INGERSOLL) because he conceived the subjects of the Currency and of Corporations, so far as the Constitution was concerned, to come within the consideration and action of some one of the standing committees. In fact, he considered the several subjects, which the gentleman now proposed to refer, as being already before the committees. If, however, at a subsequent stage of our proceedings, it should be discovered that the committees had more labor than they could well get through, it would then be time enough to create new committees.

Mr. PORTER, of Northampton, had the honor of being a member of the committee which reported these rules, and he concurred in opinion with the gentleman from Beaver, (Mr. DICKEY) that it would be most proper to have an equal division of labor among the standing committees. This course had been suggested in committee, and he thought at the time very properly, still he was not tenacious as to the number of committees to be appointed, and he did believe the subjects mentioned by the gentleman from Philadelphia county, (Mr. INGERSOLL) were very important, and well deserving the attention of a committee. He thought, however, that there ought to be some change in relation to the seventh committee. To the seventh committee was proposed to be referred the subject of schools, seminaries of learning, and the rights, privileges in communities and estates of religious societies and corporate bodies. Now he thought that the subject of schools and seminaries of learning would be an ample field for the committee on the seventh article, and the subject of corporations could be sent to another committee. He believed that the subject of corporations had not yet, in this country, received that consideration to which it was entitled. Our courts had followed the rule laid down in England, which he did not consider a proper precedent for this country to pattern after. There they practiced upon the doctrine of Sir JAMES MCINTOSH, and conferred special favors upon corporations on the ground that it was so much power taken from the sovereign and conferred upon the people. Now in this country the sovereignty is vested in the people themselves, and whatever power is granted to corporations, is so much abstracted from the people themselves. This was only one view of the subject, but the question was one of such vast and absorbing interest to the whole people of the country, that, in his opinion, it deserved the undivided attention of a committee, therefore, he hoped they might have a distinct committee on the subject of Corporations. The subject of Internal Improvements was also a subject of very great importance, as far as it related to the amount of money expended and the benefit conferred on the citizens at large, and might be also well worthy the attention of a committee.

Mr. STEVENS, of Adams, agreed perfectly with the gentleman from Beaver (Mr. DICKEY.) He could not possibly see what good could arise from the creation of these committees now, as they had standing committees on the several articles of the Constitution, but he thought he could see some harm which might grow out of it. When the Convention created standing committees, it seemed to be an indication of the will of the Convention that the subjects referred to them should be discussed and introduced by those committees to the Convention. Now were not the subjects proposed to be referred to these two committees the same as those proposed to be referred to other committees? Would not the committee on the legislative power of the Commonwealth have referred to it the whole subject of the creation of corporations, and the whole subject of the creation of banks; because what power was it but the legislative power which created them? This committee then certainly was the appropriate one, to which this subject should be referred. Now he considered that the creation of these new standing committees by the Convention, would seem to imply that they believed there was so much importance attached to a particular subject, as to render it expedient to take it away from its appropriate committee, and send it to another. He knew that

of late years it had become the fashion of the day to attach vast importance to certain subjects; but he was not willing that this Convention should reiterate the declamation of the day at the very outset. The better course would be to allow the regular standing committees as proposed by the rule to take these subjects in charge, and if they did not act upon them speedily and satisfactorily, then gentlemen might introduce a resolution to appoint a special committee to take charge of the subject. So far as relates to the second resolution, he would ask whether the subject of Internal Improvements and Public Highways was not purely of a legislative character, and were they to take away from the committee this subject before it had been acted upon at all, and send it to another committee?—There were some things connected with this motion of the gentleman which he did not understand. It was this subject of the eminent domain of the State, and he should prefer having the whole subject left to the committee to be charged with the subject of the legislative power of the government. He feared that under this provision some attempt might be made—not by the gentleman who made the motion—but by some other gentleman, under the impression that the voice of the people required it—to resume some of the grants which the Legislature had already made.—He feared some attempt might be made under this provision to annul the patents which had been granted to the farmers for their lands, and that they would be resumed by the State. He hoped therefore, that until the committee proposed to be raised on the legislative power of the State should have acted or refused to act, it would not be deemed necessary to withdraw from it its appropriate duties, and send them to another committee. As he had before said, if this subject was not properly dealt with by the rule, he would be one of the last to vote against the raising of new committees.

Mr. EARLE apprehended the gentleman from Adams (Mr. STEVENS) had fallen into an error in relation to the restrictions in the Constitution on the Legislature. He thought the gentleman must have in his mind the Constitution of the United States, instead of the Constitution of Pennsylvania. There was not a word in the first article of the Constitution of Pennsylvania about restraining the legislative power, and he understood that to be the object of the gentleman from Philadelphia county, in introducing this proposition, and not to resume the titles to the lands of the farmer as the gentleman apprehended. He thought gentlemen had better meet this question, because there were many people in the country who believed that the legislative power was some times abused, and they also believed that this was the proper time to restrict the legislative power.—He considered that the committee on the first article of the Constitution had a very arduous duty to perform in examining the various matters which would be referred to them, therefore he should be in favor of sending this subject to another committee.

Mr. WOODWARD, of Luzerne, said he should vote for the amendment of the gentleman from Philadelphia county, (Mr. INGERSOLL) because he believed the subject to be of such importance as to require a distinct committee. But while he should vote for this amendment he was opposed to the whole matter of sending each article of the Constitution to a separate committee. He regretted that he could not now enter as fully into an explanation of his views of this question as he should like to do in conse-



quence of the weak state of his health. He had supposed they were sent there to perform high and solemn duties, but at the same time duties in themselves simple. They were sent there to propose to the people amendments to the Constitution few in number and simple in character, and he believed it was perfectly competent for the Convention to agree in a very short time to all the amendments which might be necessary, and which would be acceptable to the people. But if this proposition prevailed, and the different articles of the Constitution were referred to different committees, those committees would report upon the whole of the articles of the Constitution, and those reports when they came before the Convention would be amended and discussed, and there was no telling how long the Convention might be occupied in a useless discussion of this matter. He considered that the more appropriate and speedy course would be to raise one grand committee to take up and consider the whole of the Constitution, and propose such amendments as the majority might agree upon. It seemed to him that referring the Constitution to separate committees would open up too wide a field for debate, and oblige the Convention to remain in session too long, and that at last there would be so many amendments referred to the people that they would reject the whole. The subject, he agreed, was deserving of consideration, serious consideration, but if the kind of committee he proposed should take the whole matter into consideration, it could be done in much less time, and in a more satisfactory manner, than by referring it to standing committees. If separate committees were appointed they would go to work, each without knowing any thing of the views and sentiments of the other, and without consultation, whereas, if a grand committee was raised this difficulty would be obviated, and they could go on understandingly and discuss and amend the Constitution as the majority might deem fit. He regretted exceedingly to differ with the committee which reported these rules, in this particular, as, in other respects, he thought they had made an able report, but because he thought the plan he suggested of getting this subject before the Convention a much better one than that proposed by the committee, he should feel obliged to vote against the whole of these propositions referring the different articles in the Constitution to standing committees. If the Convention agreed not to appoint these committees, and he hoped they would so agree, he should then move to raise a grand committee to consist of one member from each county, or such other number as might be deemed expedient to take into consideration and report such amendments as they might think proper to be proposed to the people for their consideration.

Mr. DORAN, of Philadelphia, believed every gentleman in the Convention would agree with him that this was one of the most important bodies which had assembled in Pennsylvania for upwards of forty years; and that it was an assemblage which was to decide on matters which would have an important bearing on the prosperity of the great commonwealth of Pennsylvania. The subjects to be acted upon before this Convention, were subjects of the utmost importance to every individual in the land, and they were subjects on which, undoubtedly, at this time there was a great diversity of opinion among the members of the Convention. He believed there was as much diversity of opinion among the party to which he belonged, as there was among the party to which the gentleman from Adams



(Mr. STEVENS) belonged. He believed, however, that when the question of reform was brought fairly before the Convention, that party considerations would be entirely left out of view, and that gentlemen would come forward without regard to party, and join in the work of reform as their constituents desired them to do, and adopt such measures as were right, and reject such as were wrong. If it was the object of this Convention to amend our Constitution, he would submit it to gentlemen whether the most appropriate mode of introducing those amendments would not be through standing committees raised upon the subjects embraced in the Constitution. Beside the standing committees proposed to be raised by this rule, had they not heard of other subjects of sufficient importance to justify the raising of separate committees? The subjects of the currency and corporations, of public highways and the eminent domain of the state were subjects of the very highest importance, and on all these subjects the people desired information, and were they not to give them this information? He hoped, therefore, that gentlemen would not refuse to grant these committees.

Mr. MERRILL would not have said a word on the subject, had it not been for what had fallen from the gentleman on his right (Mr. WOODWARD). He could not approve of the course which that gentleman conceived to be preferable to the one proposed, for he did not believe that it would be either practicable or profitable. No advantage could be gained by it. He (Mr. M.) was of opinion that it was much better to refer the different subjects to the various committees, so that the principles pertaining to each subject should be kept separate and distinct. When each committee reported separately, the danger of reporting conflicting matter would be avoided. They would report about the same time, and then every member would be able to see the whole of the proposed amendments at once. Under every view of the matter, he felt disposed to vote for the motion of the gentleman from the county of Philadelphia.

Mr. CURLL regarded the proposition of the gentleman from the county of Philadelphia as one of great importance. The subjects which he wished to have referred to separate committees were of the greatest magnitude and most important character that could be brought under the consideration of this enlightened body. He (Mr. C.) was at a loss to perceive, as had been contended for, that the committees already raised had those subjects embraced in others that were before them which the gentleman proposed to send to additional committees, which he desired now to be formed. His (Mr. CURLL's) opinion was that the subject matters contained in the seventh article of the Constitution of 1790 had no connexion with the corporations to which the gentleman from the county of Philadelphia referred in his resolution, but had reference only to the forty-fifth section of the Constitution of '76, which he begged leave to read.—Mr. C. then read as follows:

“SECTION 45. Laws for the encouragement of virtue, and prevention of vice and immorality, shall be made and constantly kept in force, and provision shall be made for their due execution. And all religious societies or bodies of men, heretofore united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they were accustomed to enjoy, or could of

right have enjoyed under the laws and former Constitution of this State".

Now, the incorporations of the present day were as different and distinct as they could possibly be in their character, nature, and tendency, from those which were alluded to in the Constitution. He hoped that no effort would be made by any gentleman on this floor to stifle inquiry, and to defeat the bringing up of the momentous subjects in question for the action of this Convention—for, they were subjects in which the rights and interests of the community were deeply involved. And, after they should have been debated here, and gentlemen could effect nothing, they would at least have the satisfaction of recording their votes, and showing their constituents how they had voted. He would, with pleasure, vote for the motion of the gentleman from the county of Philadelphia.

A division of the question was called for by Mr. RUSSELL, of Bedford, to end with "Corporations".

The question was then taken on the first division of the amendment, and it was determined in the affirmative.

The second division of the amendment was then agreed to.

Mr. CHAMBERS moved further to amend the said rule by striking from the tenth printed line the words "each committee to consist of nine members", and adding the same after the word "state", in the twelfth committee; which was agreed to.

Mr. DORAN moved further to amend the said rule, by striking therefrom the word "nine", and inserting in lieu thereof, "eleven"; which was decided in the negative.

Mr. STEVENS moved further to amend the said rule, by inserting after the word "Constitution", in the ninth printed line, the following: "A committee on the subject of public loans and the State debt".

Mr. STEVENS said that he thought this was as important a subject as any that had been brought before the Convention. And as it was the determination of the body to introduce all important matters and refer them to the standing committee, he thought he might as well bring this one, and have it take the same course. He thought that it was high time that we should ask the people of the commonwealth, whether it was not proper to add some constitutional limits to the burdens, in the shape of a debt, which the Legislature had imposed upon the people and their posterity. He thought that it ought to go to a committee in order that the subject should be inquired into. He had no hesitation in expressing his opinion that a constitutional limit should be placed to the State debt, before the Legislature should increase it.

Mr. Cox, of Somerset, remarked that it seemed to him, that unless some good reason could be shown to the contrary, it was proper that some limitation should be introduced into the Constitution.

We came here as the representatives of the people, and therefore we ought to carry out their wishes and views. Now, he had no hesitation in declaring, as one of the representatives of the people that they do desire that there should be some constitutional limit to the State debt. He thought that the Convention, should they but reflect for a moment as to the amount of the debt which had been incurred within the last ten years, would at once see the propriety of some action in respect to it. And, more especially, if they reflected upon the course pursued by a recent Legislature of this State, he felt certain that they would be convinced of

the necessity of adopting some course which would have the effect of preventing an increase of the debt. What! were we to come here, as some gentlemen had told us, to represent the wishes and interests of the people, and neglect this matter, which was of the greatest importance, and concerning which so much had been said? If the representatives of the people went on for the next twenty years, as they had done for the last ten, appropriating enormous sums of money, the State debt would amount to seventy-five millions of dollars! And, should they go on for the next six years, as they had done at the last session, appropriating immense sums, the State would be in debt to the amount of fifty millions! Then, the question arose (and it was a matter deserving of serious reflection) whether that amount was not too much for the people to have hanging over their heads? He thought that it behoved every member of the Convention, before he voted down that proposition, to consider deliberately and carefully the effects of so doing. He hoped that the motion would prevail.

Mr. DORAN, of Philadelphia, said that he was glad that the gentleman from Adams had brought forward this subject. He would vote for this committee, and he trusted that the gentleman would bring forward a proposition concerning the rise and progress of Antimasonry.

Mr. BROWN, of Philadelphia, said he should vote against the proposition of the gentleman from Adams in order to save him from the effect of his own arguments. He thought it a pity to spoil his arguments against the proposition of his colleague. If the gentleman would bring forward a proposition for a committee on *secret societies*, he would vote for it.

Mr. STEVENS. The gentleman shall be gratified to his heart's content. The question being taken on the amendment, it was agreed to.

Mr. STEVENS then moved an amendment by adding these words after the word "debt": "A committee on the subject of secret societies".

Mr. STEVENS believed it would be deemed on all hands that this was a subject worthy the consideration of the Convention. They all knew that it was a subject which had deeply agitated the people of this Commonwealth, with perhaps the exception of the city of Philadelphia, and was it not right that a question on which seventy or eighty thousand of our citizens had expressed an opinion, should be brought before this Convention and receive its due consideration. Gentlemen might depend upon it that this question would find its way in some shape or other into this Convention, and it seemed to him that the most appropriate mode of disposing of it, for the present, would be to send it to a committee, to be there put in a proper shape for the action of the Convention. This subject had engaged the attention of great and good men, not only in this country but in every country in Europe. It was considered of sufficient importance in England to be referred to a committee of parliament, and that committee had recently brought in a report on the subject; and DANIEL O'CONNELL, the great apostle of Irish liberty, had, as he perceived in the journals of the day, made a powerful speech to the people of England on the subject, within the last two months. The subject was beginning to agitate every country which laid the least claim to freedom of debate, and he hoped it might receive the favorable reception of this Convention; at least that gentlemen might allow a committee to be raised on the subject.

Mr. DORAN moved to strike out the words "of secret societies", and

insert in lieu thereof the words "on the rise and progress of Antimasonry".

Mr. PORTER, of Northampton, thought the time had gone by when subjects of this kind would find their way into bodies like this. For the last few years no one could open an Antimasonic newspaper, or listen to an Antimasonic speech, but he would find the same statements, of what the EMPEROR of RUSSIA, DANIEL O'CONNELL, or the KING of SPAIN were doing against the poor Freemasons. It reminded him of the fiddler who, when asked to play any tune, no matter what, always ended with "Dick bang the weaver". It seemed they were going to have "Dick bang the weaver" again.

Mr. CHANDLER, of the city, said, I rise, Mr. President, to express a hope that the gentleman from the county, (Mr. DORAN) will withdraw his motion; and the gentleman from Adams (Mr. STEVENS) will also see the propriety of not pressing his upon the Convention. Whatever views of policy may be deemed expedient in the organization of a party, or in prosecution of a general canvass, it seems to me, sir, that here at least we should adopt the spirit of the wise man's recommendation, and answer not an improper proposition, according to its impropriety. The duties of the members of this Convention are solemn and of high import; and it would be offering violence to the views, if not an insult to the feelings of our constituents, to make this room the arena of party squabbles or of personal recriminations.

I should be unwilling to make any committee of this body, much less the Convention itself, the historians of such matters as the resolution of the gentleman from the county proposes for consideration. And as for the matter of secret societies, I appeal to my friend from Adams, whether we as co-partizans, were not sufficiently rebuked by last October elections, for a public interference in such concerns.

The gentleman from Adams talks of these societies having been driven from Europe. I can know, sir, of course, nothing of secret societies. I have, indeed, heard that *one* society was once broken up in Europe; but I have heard also, that it is revived there, and introduced here. As that, perhaps, may come under the distinction of secret society, it may be well to ask, from the other delegate from Adams, as well as my friend from the county, who moved the last resolution, whether they will not find what is dearest in their views of religious freedom, strangely violated, when the Constitution of Pennsylvania shall be made to deny existence to a society established to disseminate science, by peaceable means, and in connexion with that religion which they both profess.

I have no wish to limit the proper action of this body; but I solemnly protest against the introduction of matters totally irrelevant to its objects and derogatory to the dignity with which the people and the Legislature of the State have clothed it. And I ask, Sir, whether the course now pursued is such as will commend our deliberations to the approval of our constituents. If the solemn duties devolved upon us are not sufficient to confine our action to proper subjects, it would be better for us, and more edifying to the people, that we should adjourn at once, than to present the spectacle of passionate discussions of subjects, forced upon us by party discipline, or for the gratification of personal feeling. Let us rather adjourn immediately, and say to our constituents that being unable to per-

form any good work for which we were elected, we had the honesty at least to abstain from the performance of positive evil and the exhibition of bad examples.

Mr. MANN moved to postpone the amendment and amendments, indefinitely. Pending this motion,

The Convention adjourned.

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MONDAY, MAY 8, 1837.

On motion of Mr. CHAMBERS, the orders of the day were postponed for the purpose of proceeding to the consideration of the report of the committee on rules.

Mr. CLARKE, of Indiana, moved to postpone the 29th rule, relative to the appointment of committees, for the present, in order that they might consider and adopt the remaining rules. Mr. CLARKE said, the more he reflected upon this matter the more he was convinced that the reference first of each article of the Constitution to a separate standing committee was not the best mode of proceeding. He apprehended there would be a great diversity of opinion in these committees. Some might be so radical that they would introduce a great deal of novelty into the Convention, while others might be so conservative as to think there were no alterations at all necessary in the Constitution. In consequence of this they might have, as, he doubted not, they would have, in many instances two reports, and perhaps in some three; and this he considered would rather tend to confuse than to enlighten the members of the Convention. He thought the best plan was to take up the Constitution in committee of the whole, and there consider it article by article, and section by section, and take the sense of the committee on each, and when the majority thought any amendment necessary in a particular section, they could adopt a resolution, that in the opinion of the committee the Constitution ought to be amended, as they might indicate. This was the course pursued in the Convention of 1789-90. The Convention met on the 24th November, 1789, and after consuming eight days in organising and preparing for business, they went into committee of the whole on the 1st of December, and on the 9th of December the committee of the whole reported a set of resolutions expressive of the sense of the committee of the whole as to the matters to be embraced in the new Constitution. That report was discussed two days, when a committee was appointed to put the Constitution in a proper form to be brought before the Convention. In ten days afterwards this committee reported in part, and in two days made a further report. On the 23d of December the Convention went into committee of the whole on the Constitution as reported by the committee of nine. On the 5th of February, 1790, the committee of the whole made another report. On the 18th of February it was referred to a committee of three for the purpose of revision. On the 24th of February the committee of three made a partial report, and on the 26th of February, reported the remainder, when the Convention adjourned to meet again on the 9th of August. The Convention then met on the 9th of August and discussed the Constitution until the 2nd of September, when it was adopted

and the Convention adjourned. This was the plan adopted by those who formed the present Constitution; and with the exception of not referring it to the people, it was in his opinion the best plan. He was in favor of taking up the Constitution, article by article, in committee of the whole, so that each delegate might give his views and the sentiments of the whole Convention could in this way be ascertained. But let the separate committees now contemplated go out, and when they come back with their reports, we shall be less prepared to form a Constitution than we are now.

The motion to postpone the twenty-ninth rule was then agreed to.

The thirtieth and thirty-first rules, were then adopted.

The thirty-second rule being under consideration as follows:

“The yeas and nays of the delegates, on any question, shall, at the desire of any two of them, be entered on the journals, and the delegates shall have a right to insert the reasons of their votes on the journals”.

Mr. BROWN, of Philadelphia, moved to amend by inserting after the word “question”, the words “except on a motion to adjourn from day to day”.

Mr. READ, of Susquehanna, suggested the following as a modification of the above, “except on questions of daily adjournment, or on a question for leave to make a motion, or to offer a resolution”, which Mr. Brown accepted as a modification.

Mr. READ thought the question on daily adjournment was not one of sufficient importance, to make it necessary to call the yeas and nays, besides it was a motion which might be repeated frequently on the same day, and the yeas and nays taken on it occasioning very great loss of time. With regard to the other question, it was merely a preliminary motion, and he considered, from the disposition already exhibited to have the yeas and nays called, that it would be a very great saving of time to dispense with them.

Mr. STERIGERE, of Montgomery, was desirous of seeing another amendment of this rule; he would, therefore, suggest to the gentleman from Susquehanna, to allow him first to make a motion to strike out the words “any two”, and insert “one fifth” so that it should require one fifth of the delegates to call the yeas and nays. This was the practice in the Congress of the United States, and he considered it far preferable to having the yeas and nays called by two delegates,

Mr. READ did not think it necessary on questions of adjournment, and for leave to make a motion, to encumber the journals with the yeas and nays at all; but at the same time on important questions he would not be in favor of placing any other restrictions than those now proposed by the rule.

The amendment of Mr. Brown was then agreed to.

Mr. STERIGERE then moved to amend the rule by striking out the words “any two”, and inserting in lieu thereof “twenty”.

Mr. REICART, of Lancaster, said, before they made so great a departure from the established rule practiced upon in the Legislature, he should like to hear some good reason for it. According to the suggestion of the gentleman from Montgomery, no matter how important the question might be, and no matter what desire there might be on the part of the people to know how their representatives voted, unless there could be found twenty



argues in favor of calling for the yeas and nays, they could not be taken. He hoped the Convention would not agree to this amendment unless very good reasons could be given why it should be adopted.

Mr. PORTER, of Northampton, observed, that in the committee which drafted these rules, there was some little diversity of opinion in relation to this one. Considering, however, that there was a provision on this point in the Constitution of Pennsylvania, they were not disposed to depart from it, but referred it to the Convention for its consideration and decision. While he, himself, was in favor of increasing the number somewhat, to prevent the yeas and nays being called on matters of minor importance, he was inclined to think the number proposed by the gentleman from Montgomery too great. He thought, however, the number ten would be more satisfactory to the Convention, and at the same time be at a saving of expense, as the time lost in calling the yeas and nays and the additional expense of having them printed in the journals, would be very considerable.

Mr. MERRILL, of Union, moved to amend the amendment by striking "twenty" and inserting "six". It seemed to him, that twenty was a large number, and that injustice might sometimes be done to members by requiring so large a number to call for the yeas and nays.

Mr. STERIGERE thought gentlemen's objections so far as they related to the ordinary practice in legislative bodies were not sufficient. It is true, the objections might be good enough so far as related to this Convention, but so far as they related to the legislation of Congress, and of the other States, the objections were not good ones. According to a provision in the Constitution of the United States, it requires one fifth of the members of Congress to order the yeas and nays, and, as that body was now constituted, it required upwards of forty members to order them. Taking that as a basis, he thought twenty members here would be a proper number to order the yeas and nays, and if there could not be found twenty delegates in favor of having the yeas and nays taken, he did not think the proposition would be of sufficient importance to warrant their being called. As to the objection that the Constitution required the yeas and nays to be taken on the call of two members in the Legislature, it was fallacious; because, the Constitution had no effect on this body. He was not tenacious about this matter, but he thought it would expedite our business considerably to require twenty to order the yeas and nays.

Mr. Cox, of Somerset, thought they had better not require such a large number as twenty to rise to second the call for the yeas and nays. According to the practice in the House of Representatives, when a member calls for the yeas and nays, the seconder has to rise so that the Clerk may ascertain who seconds the call. Now he considered that if the Clerk had taken down the names of the nineteen who seconded the call for the yeas and nays, there would be very little time saved.

Mr. STERIGERE said this would not be the practice. It would only be necessary for the nineteen to rise, so that the Chair could tell whether the yeas and nays would be ordered.

Mr. Cox said the practice always had been in the Legislature to insert in the journal the name of the person who seconded the call for the yeas and nays, as well as the name of the person who called for them. He did not know, however, but what some further restriction than that propo-

sed by the present rule might be necessary, for he believed the yeas and nays were called the other day on a proposition, he believed of the gentleman from Montgomery, (Mr. STERIGERE) when there were only five who voted in the affirmative, therefore he did not know but that it might be advisable to insert six instead of two so that they might not again be called on an occasion so unimportant.

Mr. MEREDITH, of Philadelphia, would merely state as a member of the committee which drafted these rules, in reply to the remark of the gentleman from Northampton, (Mr. PORTER) that it was not his opinion that any restriction should be made on this rule.

Mr. PORTER had merely stated that this subject had been spoken of in committee, but that the committee had determinee not to take upon themselves the responsibility of changing the rule from the existing practice in the Legislature.

Mr. MEREDITH said that, on Saturday, they had gone on the principle of extending this rule, so as to allow the yeas and nays to be called in committee of the whole, where they had never before been called, and it seemed to him that, by increasing the number now which would be required to call the yeas and nays, they would be acting upon a principle directly the reverse of this. He did not think they should require any greater number to order the yeas and nays than that required in the Legislature of our State. Indeed, he considered that if any one member of the House desired to have the yeas and nays called, for the purpose of recording his name, he should have the privilege. A case might arise in which an individual, believing himself to be in the right, would desire to record his vote in favor of, or in opposition to, a particular measure, when the whole House would vote on the other side, and in a case like this, especially, he thought a member should have the liberty of recording his vote, in order that he might have an opportunity of showing who was right and who was wrong.

Mr. DARLINGTON, of Chester, said the right of two members to call for the yeas and nays was not derived from the rule, but it was a right, guaranteed by the Constitution, and he considered that the Convention was called under the Constitution. In addition to this, he might be permitted to add that there were members in this Convention who entertained conscientious scruples on particular subjects; he imagined questions would arise on which conscientious scruples would be entertained, and he should consider it the right of such individuals, however few in number, to have their votes recorded, so that it might be seen precisely on what points they voted. He should not feel himself at liberty to place any restrictions on this matter, and he questioned whether there would be sufficient inconvenience experienced to justify them in dispensing with so salutary a rule.

Mr. INGERSOLL, of Philadelphia, rose merely to state two facts. He regretted extremely that any alteration should be made in the number required to call the yeas and nays. Already in this Convention, before it was scarcely organized, a respectable member had asked to be excused from voting on a question, because there was not a single individual agreeing with him in opinion. Another fact was, that on a signal occasion, such a man as JAMES MADISON had been found voting by himself, and he did not know but what there were men in this Convention who would stand alone on some questions. He deprecated any increase in the number re-

quired to order the yeas and nays, and should be glad if they could be ordered on the call of a single individual.

Mr. MERRILL then withdrew his motion.

Mr. CLARKE, of Indiana, then rose to name "four", as that number might meet the views of some gentlemen who desired an increase in the number, not however intending to vote for that number himself. He was very partial to the mode pursued by our forefathers, and he discovered that in the Convention of 1790 the yeas and nays were called on the motion of a single member. They, however, in framing the Constitution, had fixed upon two as the proper number, and he had no objection to that number; but he had named four, so that if there was a majority in favor of an increase they might unite on that number.

Mr. CHANDLER, of Chester, called for a division of the question so as to take the question on striking out.

The CHAIR said that the motion to strike out and insert was not divisible. He was also of opinion that the motions to insert the numbers "six" and "four" were not in order. If the motion to strike out "two" and insert "twenty" was negatived, then it would be in order to make either of the other motions. The motion to insert "four" would contravene a rule of the House now in force, that the question should be taken first on the highest number.

The motion to strike out "two" and insert "twenty" was then decided in the negative.

Mr. STERIGERE moved further to amend the said rule, by inserting, after the word "resolution", the following words, viz: "upon which question the yeas and nays shall not be called, unless demanded by one fifth of the delegates present", which was decided in the negative; and the rule as amended was adopted.

The thirty-third and thirty-fourth rules were severally considered and adopted.

The thirty-fifth rule being under consideration,

Mr. STERIGERE, of Montgomery, moved to amend the rule by striking out the words "he at that time declares that he voted under a mistake of the question", and inserting in lieu thereof, the words "it be done before the annunciation of the result". He thought that there should be other reasons assigned, because, before the yeas and nays were announced, the judgment of the member might be changed, and it was only right that the vote which he was anxious to record should go before the public.

Mr. DUNLOP, of Franklin, believed that no man had a right to change his opinion under sixty days. Indeed, he believed that had been well settled at Pittsburg.

Mr. STERIGERE: It may be the democratic rule of Pittsburg and Franklin county; but I do not know that it is the rule elsewhere.

Mr. BELL, of Chester, said he should like to know why it was that no delegate should be allowed to change his vote, unless he at the time declares he voted under a mistake of the question. What was the reason? If he choose to assume the responsibility of changing his vote, he would like to know the reason why he should not do so?

Mr. EARLE, of Philadelphia, entirely agreed with the gentlemen from Montgomery and Chester, that a member ought to be allowed to change his vote at any time before it is announced. On an unexpected call for the

yeas and nays, a member might vote without proper reflection, and a thought having occurred to his own mind, perhaps might induce him to change his opinion. And, if he did not do so before the matter was completed, he did not see why it should not be entered on the record according to the way in which his mind was made up. He trusted that the amendment of the gentleman from Montgomery would prevail.

Mr. FORWARD, of Allegheny, believed that a member was not obliged to vote except when he should think proper. And, he presumed that any prudent man would like to understand the question before he gave his vote. He did not think that any member ought to have the privilege of changing his vote, unless he declares that he voted under a mistake.

Mr. STEVENS, of Adams, was not in favour of changing the rule of the House of Representatives. He could easily fancy reasons why this clause should stand. Supposing after a vote was taken on a question, and a single vote would change the result, that a gentleman were allowed to change his vote the consequence might readily be foreseen. Although he would not presume that any member of this Convention would be so corrupt, or be influenced by undue means, yet in the decision of an important and agitating question, when a single vote, either way, would change the result, there would be powerful motives for those in a minority to tamper with the integrity of men on the other side. He presumed that it was to prevent party from having such an influence, that this salutary rule had been uniformly adhered to. He would suppose there was a party question to come up—one to which it was designed to give a party character—and one or two members not ranked as belonging to any particular party, were, in the exercise of their honest unbiassed judgment, to vote against their friends and perhaps defeat them by one vote—was it not plain that the whole party influence would be brought to bear upon one or both, to induce them to change their vote, without due reflection? Supposing, too, the same thing to be done in a case in which, perhaps, millions of property might be involved—the rightful owner might be thus deprived of his property. He did not mean to say that any one here would act unfairly—but only that such a thing might be done. Well, then, every gentleman present would see the absolute necessity of so framing the rules of this Convention, as to prevent the exercise of unfair and undue influence over members. It was to prevent men from being led into temptation, that, heretofore, the rule had been strictly obeyed.

Mr. DORAN, of Philadelphia, said he differed altogether with the gentleman from Adams, (Mr. STEVENS) in relation to the members of the Convention. They were not designing, corrupt politicians, men of principle in proportion to their interest, but high minded, honorable men, chosen by their fellow citizens, on account of their worth and talents, to perform a most important labour, that of remodelling the constitution of this great Commonwealth, for the government of them and their posterity. To suppose that individuals of such standing and character, would resort to low tricks and management—that they would finesse and equivocate—that they would, at one moment, vote for a measure, and immediately afterwards from some paltry and improper motive fly from that vote and vote differently, was to suppose what could never take place in a public assembly, composed of such members as the Convention. Why not then allow every member, the right to modify or change his vote as he

pleases, up to the time of the votes being announced by the Chairman? A variety of circumstances can readily be imagined, which would justify a member in changing his vote. This is a deliberative body, a body of reason and reflection; but the gentleman from Adams would make it a body of impulses, of passion and feeling, void of reflection. We ought therefore, to give to every member, entire freedom of thought and action; if he errs, the error is his own, for which he must answer to the people, and especially to his constituents; certainly not to the Convention. Proscription, intolerance, or inquisitorial proceedings, are not suited to the temper of this House; and it was but the other day, when the House indignantly frowned down an attempt that was made to exclude a member of this Convention (Mr. MANN, of Montgomery,) from voting, who happened, through necessity, to be absent when his name was called by the Secretary. This case, proves the liberal tone of the Convention, as to the right of voting, and should have deterred the gentleman from Adams, from pressing his intolerant views upon them. No freeman could sanction such views, or wish to see them carried into execution.

Mr. PORTER, of Northampton, observed, that one word would set the matter right. This rule was adopted many years ago as the standing rule of the Legislature. It did not prevent a gentleman, who had voted by mistake, from changing his vote. On the contrary, it expressly gave him the power to rectify the mistake. It was adopted to make men reflect upon the subject before them, and to discourage versatility. When the ayes and noes were called, it was taken for granted that discussion had ceased, and members had made up their opinions.

Mr. FORWARD, of Allegheny, thought the real intention of the rule was to prevent members from voting at a venture, without having given to the subject, upon which they would have to record their vote, that examination and reflection, to which it was entitled. It was intended to induce every man to attend to what was going on—to perform his duty. And, if he did, there was no danger to be apprehended. If every member was required, at his peril, to understand the business that was being transacted, and to give his vote under those circumstances, then we should have some security that he was doing his duty. Under every aspect, then, in which the rule could be viewed, he thought it was a most salutary one.

Mr. MERRILL, of Union, regarded this as a most necessary rule in all deliberative bodies. If gentlemen were to be allowed at all times, to rise up one after the other in their places, and ask to change their votes, the Convention would be thrown into inextricable confusion, and disorder. As it had been very properly and correctly remarked by the gentleman from Allegheny, members would be compelled to attend to the business that was going on, and would thus be enabled to make up their minds as to how they would vote, when called upon to do so, and not ask to change their vote, when the decision should have been announced.

Mr. STERIGERE, of Montgomery, said, that it had been argued this morning that it was exceedingly important that the votes on any question should be made known to the public. Now, it seemed to him just as important that if the votes did go to the public at all, they should go out as an expression of the *opinion* of each individual. A member might have voted one way, but before the vote should have been announced from the Chair, he might have changed his mind, not however, because he could,



in truth, say that he was laboring under a mistake of the question at the moment he voted. Well, then, if he were not to be allowed to change his vote, it would be sent forth to the public as his opinion, when, in fact, it was not an indication of it. If it was important at all that the votes of the members of this Convention should be made known to the public, it was absolutely necessary, that they should truly represent their opinions. The gentleman from Adams had adverted to the rule of the House of Representatives, and the practice and construction of it. Now, he (Mr. S.) would ask, what had been the practice of that rule? Why, gentlemen had came forward, perhaps not from a mistake of the question, but from a mistake of some sort, and he knew of cases of this character, where a gentleman was not disposed to vote at a venture (to use the language of the gentleman on his right, (Mr. FORWARD) he would step into a committee room, and come out of it just as the clerk had got through the call of the ayes and noes, walk up to the desk, see the numbers, and then ask to have his name called. The rule, as it now stood, left it open for members to do precisely what ought not to be done. He (Mr. S.) thought they might as well act fairly and candidly, and give an opportunity to every gentleman before his name was announced to put his vote on the journal. There was not, too, any reason why the right to change a vote, should depend on the delegate declaring that he had voted under a mistake.

Mr. Cox, of Somerset, remarked, that if a gentleman were to have the privilege of changing his vote, as was contended for, he might do so at the end of two months afterwards, if the body should remain so long in session. Indeed, he might, if an ambitious man, even write home to his constituents, and tell them how he had voted, and ask them whether he had done so correctly or not—and thus he could act accordingly. If they should tell him that he had voted improperly, and he saw that he was likely to lose his influence, then he would in all probability, ask to change his vote. In that case, he would not, of course, be voting according to the dictates of his own sentiments, or in such a manner as to secure the interests and rights of the whole people. On the contrary, he might, in fact, be voting to suit the views and carry out the principles of certain demagogues. He (Mr. C.) thought it would be a very dangerous rule to adopt. He, however, believed that there was not a single individual in the Convention who would proceed to the length he had assumed; but, nevertheless, it was better for this body to guard against such a state of things. As had been observed by the gentleman from Allegheny (Mr. FORWARD) this was a salutary rule, for it was better that a man should have an opportunity of changing his vote, which was given at random, instead of after full and deliberate reflection.

Mr. HIESTER, of Lancaster, suggested to the mover to modify his amendment by striking out all after the word “unless” in the fourth line, and inserting in lieu thereof the words, “he do so before the President has announced the result”.

Mr. STERIGERE accepted the amendment.

Mr. CHAMBERS, of Franklin, said, it appeared to him that the amendment as accepted, did not obviate the objection. He thought the safest guide for the Convention was to adhere to the rule as reported. It was a rule, as had been correctly stated, that had been acted upon in the House of Rep-



representatives of Pennsylvania for half a century. We had in support of it not only their opinions, but their experience, for that long period. As the rule now stood every one understood its operation; but, if we indulged in innovation and change, we knew not the extent to which it might lead us. Under every view of the matter then, he was convinced that the best and safest course for the Convention to pursue was to abide by the rule as reported.

Mr. STEVENS, of Adams, thought the amendment, as far as it went to modify the rule, was a very proper one. He, however, conceived it to be susceptible of a still further modification. He moved to amend the amendment by adding "nor then, unless he declares that he voted under a mistake of the question".

Mr. DORAN, of Philadelphia, suggested to the gentleman from Adams, to incorporate in his amendment the following additional words, "or that he has changed his opinion".

The PRESIDENT said it was not in order.

The question being taken on the amendment to the amendment, it was agreed to.

Mr. CLARKE, of Indiana, was opposed to all the amendments that had been proposed, and in favor of the rule as it stood. There were some men who possessed a great deal more of animal than moral courage. He had seen many proofs of that in his experience as a member of the Legislature. He had known members who, on a question of adjournment, were anxious to vote for it, but who, for want of a little moral courage, and lest they should lose their popularity, had voted "nay", when in fact they did not wish the vote to succeed. Now, he did not wish to give members an opportunity of evading coming to a direct vote on whatever question might be presented before them. He would therefore vote against the amendment.

Mr. DORAN moved further to amend the amendment, by adding to the end thereof the words, "or that he has changed his opinion". Which was decided in the negative.

Mr. SMYTH, of Centre, moved further to amend the amendment, by adding to the end thereof the words "and that no delegate be permitted to examine the tally of the Secretaries".

Mr. DARLINGTON, of Chester, thought that the object of the gentleman would not be attained by the adoption of the amendment.

Mr. SMYTH said, that his object was to prevent members from having an opportunity of examining the tally on the Secretaries' table.

Mr. DUNLOP, observed that the gentleman would not effect his object, unless he added these words to his motion to amend, "or any other tally".

The question being taken on the amendment, it was decided in the negative, and the amendment, as amended, was disagreed to, and the rule was adopted.

The thirty-sixth rule being under consideration,

Mr. CHAMBERS moved to postpone the further consideration of the same, for the purpose of introducing the following as a new rule, to be called, instead thereof, rule thirty-six, viz:

"That every member who shall be present in Convention when the

question is put, shall give his vote, unless the Convention, for special reasons, shall excuse him”.

Mr. CHAMBERS remarked, that he considered it right and proper that every delegate should vote when called upon to do so.

Mr. DENNY, of Allegheny, thought the rule should be so amended as to prescribe that if the delegate were *within* the bar of the Convention before the vote was announced, he should be compelled to vote. He thought this limitation necessary, otherwise the Convention would have it in their power to compel a delegate to vote, no matter where he was at the time it was taken.

Mr. CHAMBERS, of Franklin, said, that the rule proposed to compel every member *present* to vote. The rule could not be enforced upon those who were absent. If in the Convention when his name was called, he was bound to answer. He thought the rule was as explicit in its terms as could be desired.

Mr. Cox, of Somerset, would inquire whether it had not been the practice in the House of Representatives of Pennsylvania, that every member should answer to his name, if in his seat, unless he be excused. He understood that to have been the practice.

Mr. STERIGERE, of Montgomery, did not believe that there was an instance on record in reference to a member of the Legislature having been compelled to vote when he declined doing so. The Convention had an example before them, which they were bound to respect. The rule of Congress was precisely that which was proposed to be adopted here.—One of the most distinguished men in the country (Mr. J. Q. ADAMS,) had refused to be compelled to vote under that rule; and he (Mr. S.) hoped that every gentleman in this body would refuse, as the individual he had alluded to, had done. He regarded it as a kin to a gag law, to compel a man to vote, and being opposed to gag law, he was therefore opposed to this rule.

Mr. MERRILL, of Union, hoped that the rule would be adopted—for it was one that would compel every member of the Convention to do his duty, and not allow him an opportunity of throwing the responsibility upon others. Every representative had important duties to perform not only as regarded this body, but his own immediate constituents, and he should come forward and vote.

Mr. READ, of Susquehanna, said, he should be sorry to see this rule adopted for two reasons. In the first place, the gentleman had provided no means of enforcing this rule, and it would be folly to adopt a rule which they could not enforce, and there was no power in the Convention to enforce it. If a gentleman refused to vote on any question, it was a matter between him and his constituents, and not a matter in which the Convention ought to interfere. They had better then not adopt a rule which they could not enforce, and if they could enforce it they ought not to do it. It might be, and no doubt often would happen, that a member of the Convention would be obliged to be absent during a part, or perhaps during the whole of a debate, and if he should happen to come in just as the question was about being taken, without any knowledge of the state of the question, and without having heard any argument on the subject, would you compel him to vote in the dark? He trusted not. It might also so happen that a member had not made up his mind on a par-

ticular question at the time the vote was taken, and would you compel him to vote in this unpleasant situation? He hoped the rule might not be adopted.

Mr. CHAMBERS said it appeared to him that, as the representatives of the people to whom was committed the important trust of revising the Constitution of the State, they ought not only to attend to the business entrusted to them, but to vote on every question which was brought to a vote. There might be occasions, like those mentioned by the gentleman who last spoke, but when such cases arose it was only necessary for the delegate to ask the Convention and he would be excused. Was it true that the members of this Convention were only responsible to their immediate constituents? He thought not. The delegates to this Convention were not acting for their constituents alone, but for the whole people of Pennsylvania, therefore, they were responsible to the whole people, and the people were not only entitled to examine the votes of their own immediate constituents, but those of all the delegates on this floor. He thought, then, they ought to intimate by a rule of the House, that every member should vote. They had been told by a gentleman, a short time ago, that a similar rule to this existed in the House of Representatives of the United States, and that it was of no avail there. If there was such a rule in existence there, Mr. C. confessed he was a stranger to it. But if there was such a rule there, and it had been abused, let us adopt it in our rules in such terms as not to be mistaken. It had been objected to this rule that if it was adopted, we could not enforce it. There were many rules which, if the question was made, there would be difficulty in enforcing, but the respect which gentlemen had for the rules prevented difficulty. The moral respect which gentlemen would have for a set of rules would be all that would be necessary to enforce them. Believing the rule to be a salutary one, he hoped it would be adopted.

The question was then taken by yeas and nays, and decided in the negative—yeas 57, nays 73, as follows:

YEAS—Messrs. Ayres, Barndollar, Barnitz, Brown, of Northampton, Butler, Carey, Chambers, Chandler, of Philadelphia, Chandler, of Chester, Chauncey, Cleavinger, Cline, Craig, Crain, Crum, Cummin, Darlington, Denny, Dickerson, Dillinger, Donagan, Dunlop, Earle, Farrelly, Fry, Grenell, Hopkinson, Ingersoll, Keim, Kennedy, Konigmacher, Krebs, Magee, Martin, M'Cahen, M'Call, M'Dowell, Meredith, Merrill, Merkel, Miller, Montgomery, Overfield, Pennypacker, Porter, of Northampton, Riter, Rogers, Royer, Russell, Scott, Sill, Smyth, Snively, Stevens, Thomas, Todd, Sergeant, *President*.—57.

NAYS—Messrs. Agnew, Baldwin, Banks, Barclay, Bayne, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Coates, Cochran, Cope, Cox, Crawford, Cunningham, Curll, Darrah, Dickey, Donnell, Doran, Fleming, Forward, Foulkrod, Fuller, Gearhart, Gilmore, Hamlin, Harris, Hastings, Hayhurst, Helfenstein, Henderson, of Allegheny, Henderson of Dauphin, Hiester, High, Houpt, Hyde, Jenks, Kerr, Long, Lyons, M'Clay, Mann, M'Sherry, Myers, Nevin, Pollock, Porter, of Lancaster, Purviance, Reigart, Read, Ritter, Saeger, Sellers, Seltzer, Serrill, Scheetz, Shellito, Sterigere, Stickel, Swetland, Taggart, Weidman, White, Woodward, Young.—73.

The thirty-sixth rule was then adopted, and

The thirty-seventh rule was modified to allow the President of the Convention the privilege of inviting officers of the government and strangers within the bar.

The thirty-eighth rule being under consideration, as follows: "No rule

shall be altered, or dispensed with, but by two-thirds of the delegates present”.

Mr. BROWN, of Philadelphia, moved to amend, by striking out “two thirds” and inserting “by a majority of all the delegates”.

Mr. STEVENS thought the gentleman would better attain his object by moving to strike out the words “altered or”. It certainly ought to require two thirds to dispense with a rule.

Mr. BROWN said, his object was, that a majority might at any time dispense with a rule as well as alter it.

Mr. STERIGERE concurred in opinion with the gentleman from Adams, (Mr. STEVENS) that it should require two-thirds to dispense with a rule.

Mr. BROWN said, his object was that a rule might be dispensed with by a majority of all the delegates. Certainly, the Convention were disposed to keep the rules within the power of a majority, so that a majority could either dispense with them, alter them, or make new ones.

Mr. MEREDITH said, rules were adopted when the minds of members were calm, for the preservation of order. These rules should be such as a majority might deem necessary for the preservation of order; and if they were just rules, they should not be dispensed with by a bare majority at a moment of excitement.

Mr. STERIGERE hoped the gentleman would permit this rule to be adopted as reported, as he thought they would not be risking any thing in doing so. Exciting questions, perhaps, might arise when a rule which was reasonable would be altered.

Mr. BROWN then modified his motion so as merely to strike out the words “altered or”.

Mr. EARLE was surprised at the opposition which had been made to this amendment. He believed, in the Legislature, a rule might at any time be altered by laying a resolution on the table to that effect for one day.—He should consider it a kind of tyranny over the majority that they should not be allowed to alter their rules if they were unjust and oppressive. It might happen, too, in adopting these rules, that we adopt language which will be construed as the majority never intended, and would you then, take it out of the power of that majority to alter them? He hoped the amendment of the gentleman might prevail.

The amendment was then adopted, ayes 67, nays not counted.

Mr. MEREDITH moved to amend the report of the committee by adding thereto a new rule, to be called rule thirty-ninth, in the following words, viz :

“The roll shall be called at any time upon the demand of any members. A majority of the Convention shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and shall be authorised to compel the attendance of absent members”.

The amendment being under consideration,

On motion of Mr. CLARKE, of Indiana, the blank was filled with the number “two”, and the rule was adopted.

Mr. STERIGERE moved further to amend the report of the committee, by adding thereto the following, viz :

“That three hundred copies of the rules of the Convention, together with the names of the delegates, under the head of the proper district or county, with their respective places of abode, and nearest Post Offices,

and also the names of the delegates in alphabetical order, and their residence in Harrisburg, be printed for the use of the delegates"; which was agreed to.

Mr. CHAMBERS moved that the Convention proceed to the consideration of the twenty-ninth rule, before postponed.

Mr. CLARKE, of Indiana, said that he had asked for the postponement of that rule, believing that we could get at the subject for which we were assembled, much better by adopting a different course. If the majority of the Convention should concur with him in the opinion that they had better go into committee of the whole, and there take up the Constitution article by article, it would be best to negative this rule, and make a motion to go into committee of the whole.

Mr. PORTER, of Northampton: I should like to have the rule postponed in order to offer a resolution to this effect, "that we go into committee of the whole to consider the Constitution article by article".

Mr. DUNLOP, of Franklin, suggested that perhaps it might be as well to wait until the standing committees were appointed, before the Convention proceeded to consider the rule.

Mr. PORTER, of Northampton, thought the best course would be to go into committee of the whole and discuss the several parts of the Constitution before referring them to committees, in order to ascertain the opinions of the body, relative to the amendments or alterations which might be proposed to be made in the Constitution. And if, then, it should be found requisite to appoint standing committees, why then those composing them, would carry into their respective committee rooms the views and sentiments they had heard whilst in committee of the whole.

Mr. MERRILL, of Union, concurred with the gentleman from Northampton in his views in favor of a postponement rather than a negative of the rule. He had not altogether made up his mind that the better course was to go into committee of the whole. That, however, might be tried, and if the propositions were likely to be numerous and diversified, a committee could be formed at any time to take the whole matter into consideration. In fact, in every point of view, he thought that what had fallen from the gentleman from Indiana (Mr. CLARKE) deserved the serious and careful consideration of the Convention. If it should turn out that we were mistaken, then we should have the knowledge that the committees are necessary.

Mr. PORTER, of Northampton, moved that the further consideration of the rule be postponed for the present, which was decided in the affirmative.

Mr. PORTER then offered the following resolution:

*Resolved*, That the constitution be referred to a committee of the whole for consideration, article by article, commencing with the first article.

Mr. STERIGERE thought that it was out of order, and that the whole subject must be postponed to enable the gentleman from Northampton to offer it.

Mr. PORTER maintained that his resolution was perfectly in order.

Mr. REIGART, of Lancaster, moved to amend the resolution by proposing that the first article of the Constitution be referred to the committee.

Mr. EARLE, of Philadelphia, thought it would be better that the gentleman from Northampton would modify his resolution so as to refer the Constitution to a committee.

Mr. PORTER, of Northampton, considered "order is Heaven's first law". It was indispensably necessary that something like system and order should be observed in the conducting of the business of the Convention. He could not see the slightest difficulty in considering the Constitution, article by article, as he proposed to do.

The resolution was read a second time and being under consideration,

Mr. DICKEY, of Beaver, moved to amend the same by striking therefrom all after the word "resolved", and inserting in lieu thereof, the following words, viz :

"That the Constitution be referred as follows, viz :

The 1st article to a committee of nine.

The 2d article to a committee of nine.

The 3d article to a committee of nine.

The 4th article to a committee of nine.

The 5th article to a committee of nine.

The 6th article to a committee of nine.

The 7th article to a committee of nine.

The 8th article to a committee of nine.

The 9th article to a committee of nine".

Mr. DICKEY thought the best plan of getting to work would be to order the different articles in the Constitution to different committees, as it would bring before the body able reports on the subject. He should like to have on the committees charged with the three great powers of the government, the legislative, the executive and the judicial, the most talented men in the Convention, so that they might expect able reports from them, and if there was a minority report, so much the better; it would tend still more to enlighten the Convention. But if they referred the Constitution to a committee of the whole, they would have a very great variety of views, and many propositions would be submitted, which, no doubt, would not have been submitted, if in the first instance, they had had an able report from a standing committee. If they adopted the proposition he had submitted, the first article of the Constitution would be referred to the Legislative Department of the government, and if they had more arduous duties than they could perform, the Convention might divide their labors and refer a portion of their business to another committee. Besides, if it was desirable to raise committees on the subjects introduced by the gentleman from Philadelphia, (Mr. INGERSOLL) and the gentleman from Adams, (Mr. STEVENS) they might raise special committees for the purpose, and have reports from those committees on the subject. In conclusion, he wished to impress upon the Convention the necessity of having the ablest talents in the Convention acting in committee, so that they might have well digested propositions brought before the body, and not go on pell mell without deliberation or reflection.

Mr. BROWN, of Philadelphia, said that out of the Convention no man would bow with greater deference to the opinions of the talented gentlemen of the Convention than himself. But, said he, let me tell gentlemen that however exalted may be the situation of any gentleman here—however eminent his abilities or elevated his character, the moment he enters



that door, that moment he sinks into the humble representative of a portion of the freemen of this Commonwealth. And, sir, there is no member here, who, however fine may be his talents, or lowly his situation, the moment he takes his seat here, as a delegate of this Convention, he rises, at that moment to the high and distinguished station of a representative of the freemen of this great Commonwealth. All here are equal ; all the representatives of the people of Pennsylvania. No gentleman comes here, as the gentleman from Beaver asserts, to present his own crude notions. Each member is here to present, for the consideration of the whole, the amendments that the people he represents desire ;—not his own crude notions, but the matured judgment of his constituents ; and, sir, when those opinions are presented here, in his own plain and unvarnished language, they are entitled to the same consideration as any report that may be presented from any committee of the most talented gentlemen of the Convention. For one, Mr. B. said, he had come here to lay before the Convention the wishes and well considered orders of his constituents on the amendments they desire to have made in the Constitution, and they should be fully and fairly presented. And no report, no matter how talented might be those who made it, should prevent him from urging their adoption. No committee, said Mr. B. could report his views, for as yet he had not had an opportunity of making them known. It would be time enough to raise committees when the sentiments of members from different parts of the state had been expressed. Then committees could report such amendments as might be expected to meet the approbation of the Convention. We have, said he, already before us, in the Constitution itself, the best report that can be given us ; and we are but a committee ourselves, sent by the people to propose amendments for their consideration. Let us therefore proceed at once to the matter entrusted to us ; for every gentleman must be assured that to this complexion must we come at last. And all the talented gentlemen in the Convention, how learned soever may be their reports, will not, and cannot prevent a full and free discussion of the whole subject.

Mr. STERIGERE, of Montgomery, thought committees might be of very great service to the Convention, in embodying the amendments to be proposed to the Constitution, in language so distinct and clear that there might be no dispute in relation to them, whereas, if they took up the Constitution in committee of the whole, there would be twenty amendments proposed to it embracing the same principles.

Mr. PORTER, of Northampton, remarked that as he had offered the resolution it might be expected of him to state his reasons for so doing. It was very desirable to have the opinions of the members on the amendments which were necessary. If the subject was referred to the committee of the whole, each member could express his views, as the provisions of the Constitution were taken up in order, and an expression of opinion would be elicited as to what changes the majority desired. It had been objected that thus the crude ideas of gentlemen would be brought forward, without system and without order, and that it would be best first to have the several subjects elaborated in committee, and the result laid before the Convention in the shape of reports. For his part, he thought that the project of going into committee of the whole, first, was preferable, so that the opinions of all might be known, and then a committee or committees

would, if necessary, embody the sentiments adopted by the majority, and put them into the appropriate form. That as much order and method would be thus observed as in any other course he doubted not, and a serious difficulty avoided. If the articles were separately referred to different committees it would very probably occur, that gentlemen holding certain opinions, on one article of the Constitution, might be unable to bring them before the appropriate committees, from the fact of being placed on a different one. He concluded with suggesting that the freedom of debate permitted in committee of the whole, was more calculated to elicit the talents of the House, and that all could hear and decide for themselves.

Pending the consideration of this question,  
The Convention adjourned.

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TUESDAY, MAY 9, 1837.

Mr. FULLER, of Fayette, offered the following resolution, which was laid on the table:

*Resolved*, That the Secretary of the Commonwealth be requested to furnish this Convention with a statement containing the whole number of incorporated companies for banking and other purposes, within this Commonwealth; also, the amount of capital employed, and the dates of the several acts of incorporation under their respective or appropriate heads.

Mr. FULLER offered the following resolution, which was read a first and second time.

*Resolved*, That, when this Convention adjourns, it will adjourn to meet at nine o'clock to-morrow morning, and that to be the standing hour of meeting until otherwise ordered.

Mr. HIESTER then moved to amend by striking therefrom all after the word "Resolved", and inserting in lieu thereof the following, viz: "Until otherwise ordered, the Convention will take a recess from one to three o'clock, P. M., daily.

The amendment being under consideration,

On motion of Mr. BELL, the further consideration of the resolution and amendment was postponed for the present.

Mr. PURVIANCE offered the following resolution which was laid on the table:

*Resolved*, That this Convention will, on Monday next, and during the sitting of the Convention thereafter, meet at nine o'clock, A. M. and adjourn at twelve, and meet again in the afternoon at four and adjourn at six.

Mr. GRENNELL offered the following resolution which was laid on the table:

*Resolved*, That the standing hour of meeting of this Convention, be nine A. M. on each and every day, (Sundays excepted,) until otherwise directed by the Convention.

Mr. EARLE offered the following resolution which was laid on the table:

*Resolved*, That this Convention will hold an afternoon session on each day, (Sundays excepted,) commencing at four o'clock, except when otherwise expressly determined by the Convention.

Mr. BANKS offered the following resolution, which was laid on the table:

**Resolved,** That the Secretary of the Commonwealth be requested to furnish the Convention with a statement or a table of the number of taxable inhabitants in the respective wards of the several cities, and the respective boroughs and townships of the several counties, in the State, according to the enumeration made in 1835-6.

Mr. BROWN, of Philadelphia, offered the following resolution, viz :

**Resolved,** That the Secretary have printed for the use of the delegates of the Convention, a tabular statement, showing the number and official names of all the officers whose office is established by each of the Constitutions of the States of the Union, by whom appointed or elected, official tenure, salary, &c., also the official names, tenure, salary, &c. of all the officers whose office has been established by the laws of this State.

The resolution having been read, Mr. BROWN asked that it be then read a second time, and considered, which was disagreed to.

On motion of Mr. DILLINGER, the Convention proceeded to the second reading and consideration of the following resolution, offered by him on the 6th instant :

**“Resolved,** That the same number of copies of the debates and journals respectively, of this Convention, be printed and distributed, in the same manner as is now by law provided for the printing and distribution of the journals of the Legislature of this Commonwealth ”.

Mr. FLEMING moved to amend, by striking therefrom the words “the same number of copies”, and inserting in lieu thereof, “three thousand copies, thirteen hundred and thirty thereof, to be bound”.

Mr. STEVENS would like to know whether it was the intention of the gentleman from Lycoming (Mr. FLEMING,) to have the whole three thousand bound. That number appeared to him (Mr. STEVENS,) to be too many. They were of very little use, and a considerable expense would be incurred if they were to be printed on good paper and bound. If three thousand copies were ordered to be printed, twelve hundred, which was the usual number printed by the House of Representatives, would be sufficient to be distributed in the ordinary manner, and placed in the archives of the State. Not one of these twelve hundred copies would come into the hands of the members of the Convention. They were intended for another purpose. The better way was to have the copies that were ordered unbound, and let them be delivered in sheets as they were printed, for distribution among the people.

Mr. REIGART, of Lancaster, thought 3000 copies too many. As there was a greater number of members in this body than in the House of Representatives, it would be as well to have more than 1200 copies. He would therefore move to amend the motion by striking out “three thousand”, and inserting “fifteen hundred”.

Mr. FLEMING, of Lycoming, remarked that it was not his intention to have the whole number bound. If the members of the Convention were desirous to have their proceedings made known to the people, they could not do so better than by supplying them with copies of the debates.—Twelve hundred copies were not sufficient to be distributed among the people of this great Commonwealth. It was of the highest importance that the constituents of every delegate on this floor, should know precisely what was doing here, in order that each of us can consult with those whom we represent. He did not think that his proposition bordered on extravagance, and he therefore hoped it would be adopted.

Mr. DUNLOP, of Franklin, observed that 1200 was a number that could

not be divided by the number of delegates. He would therefore suggest that 1330 was a better number.

Mr. FLEMING accepted the modification, and so modified his motion as to order that 1330 copies should be bound, and the remainder be delivered in sheets.

Mr. PORTER, of Northampton, moved that the resolution under consideration, together with all the other resolutions and amendments relating to the same subject, be referred to a committee, which was agreed to.—Whereupon, it was

*Ordered*, That Messrs. DILLINGER, CAREY, KONIGMACHER, HELFFENSTEIN and M'CALL be the committee for the purpose expressed in the said resolution.

Mr. BROWN, of Philadelphia, from the committee appointed on the subject of purchasing books for the use of the Convention, reported, in part, the following resolution:

*Resolved*, That one hundred and thirty-three copies of the Constitution, of the United States, and of the several States of the Union; and one hundred and thirty-three copies of a book called the "Conventions of Pennsylvania", be purchased,

The resolution was then read a second time, considered and adopted.

Mr. PORTER, of Northampton, on leave, introduced the following resolution:

*Resolved*, That the Secretaries be directed to pay, as part of the contingent expenses of this Convention, the expense of two thousand seven hundred copies of the Daily Chronicle and Convention Journal, to be furnished during the sitting of this body, and to be divided among the members for distribution among their constituents.

The resolution having been read a second time, Mr. PORTER, of Northampton, moved that it be referred to the committee to be appointed under the resolution relative to the printing and distributing of the debates and journals; which was agreed to.

Mr. STERIGERE, of Montgomery, offered the following resolution, which was laid upon the table:

*Ordered*, That the journals of the Convention, and of the committee of the whole, be printed on good paper, in royal octavo form, with long primer type—the yeas and nays to be inserted in solid paragraphs.

*Ordered*, That a number of copies of the English debates, corresponding with that of the English journal, and a number of copies of the German debates, corresponding with that of the German journal, be printed on good paper, in royal octavo form, with brevier type.

*Ordered*, That two hundred shall be considered the usual number of copies of any paper directed to be printed by the Convention.

On motion of Mr. WOODWARD, of Luzerne, the Convention proceeded to the further consideration of the resolution offered on the 8th instant, by Mr. PORTER, of Northampton, on the subject of referring the Constitution to a committee of the whole, and the amendment thereto offered by Mr. DICKEY.

Mr. STEVENS moved to amend the amendment by adding thereto the following, viz: "And the said committee shall report the several articles of the Constitution, with or without amendments, and with no other report".

Mr. STERIGERE, of Montgomery, moved to postpone for the present, the further consideration of the resolution and amendments, in order that the Convention might proceed to the consideration of the twenty-ninth

rule. He had made this motion in the hope that it would be acceded to, as he thought it must be apparent to every gentleman that it was of the highest importance that the rules of the Convention should be finished without delay, and printed for their use.

Mr. PURVIANCE, of Butler, hoped, that neither the amendment of the gentleman from Montgomery, nor that of the gentleman from Adams, would prevail. His first reflections on the subject had induced him to believe that the best course to pursue would be to adopt the amendment of the gentleman from Beaver, and go into the appointment of the committees, and then refer to them the nine articles of the Constitution.— However, upon mature reflection, he had come to the conclusion to agree to the proposition of the gentleman from Northampton (Mr. PORTER). And, he was the more influenced in that determination, from an examination of the proceedings of the Convention of 1789–90, for he there found that on the 27th of November, '89, the Convention resolved itself into a committee of the whole ; and having done that, they proceeded to a discussion of the several propositions submitted to special committees. Now, he (Mr. P.) thought that this was much the better course. For, when the Convention should resolve itself into committee of the whole, some gentleman would rise in his place, and propose that the Constitution be altered so and so (pointing out the manner in which he wishes to effect that object). Every member would thus be afforded an opportunity of making their respective propositions as to the amendments they might deem it necessary to make in the Constitution. And, after acting on the different propositions, they could then be referred to special committees. He would read an extract or two from the proceedings of the Convention of 1789 :

#### IN CONVENTION, NOVEMBER 27, 1789.

A motion was made by Mr. M'KEAN, seconded by Mr. HOGE, in the words following viz :

*Resolved*, That the Convention will on Monday next resolve itself into a committee of the whole, to take into consideration that part of the Constitution which relates to the department of legislation, and to report whether any or what alteration shall be made therein.

It was then moved by Mr. SITGREAVES, seconded by Mr. M'KEAN, to strike out the words "that part of the Constitution which relates to the department of legislation, and to report whether any or what alteration shall be made therein", and in lieu thereof to insert the following words, viz : "Whether, and wherein, the Constitution of this State requires alteration or amendment."

Which was carried in the affirmative, and the resolution, as amended, was adopted, viz :

*Resolved*, That this Convention will, on Monday next, resolve itself into a committee of the whole, to take into consideration whether, and wherein, the Constitution of this State requires alteration or amendment.

#### FRIDAY, DECEMBER 11, 1789.

The Convention met pursuant to adjournment.

Agreeably to the order of yesterday, the Convention proceeded to the election of a committee, to "take into consideration the Constitution of this Commonwealth, with such alterations and amendments as may be necessary therein, and to report a draught of a proposed Constitution, altered or amended as aforesaid, &c. and, that the resolutions reported by the committee of the whole, and adopted by the House, shall be instructions to the said committee so far as they extend", and the ballots being taken, it appeared that Mr. PINDLAY, Mr. HAND, Mr. MILLER, Mr. WILSON, Mr. IRVINE, Mr. LEWIS, Mr. JAMES ROSS, Mr. SMITH and Mr. ADDISON were duly elected.

He (Mr. P.) proposed, therefore, that the Convention should resolve itself into committee of the whole, and at the proper season he would offer such a resolution as was offered in the Convention of 1789-90. In it, he discovered that three or four general propositions were offered in committee; one on the legislative; one on the judicial; one on the executive; one relating to the right of suffrage; and one relating to the legal power of the governor. These several propositions were discussed in committee of the whole, and were afterwards sent to a committee in order to see what propositions were necessary. He thought, then, that this was the best course, and would save a great deal of time.

The question being taken on postponing the further consideration, it was decided in the negative.

The question then recurring on the amendment to the amendment, it was decided in the affirmative.

A division having been demanded there appeared yeas 63; nays 36.

Mr. INGERSOLL then moved to amend the amendment, by adding the following standing committees:

On the subject of currency and corporations.

On the subject of internal improvement, highways, and eminent domain of the State.

On the subject of State loans and State debt.

Mr. STEVENS, of Adams, thought it would be better to adopt the proposition of the gentleman from Beaver, without having it to include the addition of more committees. Doubtless, some of the committees on the articles of the Constitution would be able to report in a day or two, and thus enable the Convention to proceed to business. If, however, it was the determination of the gentleman from Philadelphia to have an additional number of committees raised on other subjects, he (Mr. S.) should be obliged to move for the appointment of one on *Secret Societies*, for that was a subject as well worthy a committee, as any he was aware of. Indeed, it had been his intention to move for a special committee, had not the suggestion been thrown out of increasing the number of standing committees. The proper course, it seemed to him, was to appoint standing committees on the several articles of the Constitution, and to refer other subjects, to select committees. If the gentleman would withdraw his motion, and at any time move for select committees, on the subjects he proposed, he (Mr. STEVENS) would not object to their appointment. On the contrary, he wished these subjects to be duly considered by the Convention.

Mr. DORAN, of Philadelphia, said—I think it right to say that when the gentleman from Adams shall move for the appointment of a committee on the subject of Secret Societies, I shall deem it my duty to move that a committee be appointed to inquire into the rise, progress, and decline of Anti-Masonry throughout the United States.

Mr. STEVENS, of Adams, replied that it would give him great pleasure to vote to put the gentleman at the head of such a committee, for, if he would candidly, honestly, and faithfully inquire into the subject, he had no doubt that it would result in a benefit to himself.

Mr. INGERSOLL, of Philadelphia, expressed his surprise at what had fallen from the gentleman from Adams, against the appointment of additional standing committees. The other day, he (Mr. INGERSOLL) under-



stood him explicitly to *object* to the appointment of select committees, and *now* he was in *favor* of them. Mr. I. was perfectly indifferent as to which sort of committees the subjects he had introduced should be referred.

Mr. STEVENS, of Adams, had certainly intimated nothing of the kind, according to his recollection. He had objected to standing committees, as to the order of business, but special committees he preferred for particular subjects. The gentleman had certainly misunderstood him.

Mr. INGERSOLL repeated that, according to his recollection of what the gentleman from Adams had said the other day, he was against the appointment of more committees. The gentleman had spoken then, of special committees, and intimated that he (Mr. INGERSOLL) might move for one at the proper time, but deprecated the adoption of that course immediately, as calculated to bring on a discussion relative to the abrogation of contracts. He spoke, too, of the "*Horned Monster*", and many other things of that sort.

Mr. STEVENS replied that the "*Horned Monster*" he had made allusion to in a speech which he had delivered concerning legislative powers.

Mr. INGERSOLL said, that he regarded the subjects embraced in his amendment as of high importance. If it was the wish of the Convention that they should be sent to select committees he would submit to the decision. He certainly had understood, the other day, the gentleman from Beaver, as well as the gentleman from Adams, to object to the introduction of these subjects together. All that he (Mr. INGERSOLL) desired, was to bring them as early as possible before the Convention. He intended to vote for the motion of the gentleman from Beaver, because he believed it to be the most expeditious, most rational, and best mode of proceeding. He was willing to do anything in order to prosecute the business before the body. If a full assurance were given him that the subjects embraced in his proposition would receive due consideration, he would not press his motion.

Mr. MERRILL, of Union, said that he had voted the other day for the gentleman's (Mr. INGERSOLL's) motion. At the time the committee reported the rules, he had felt perfectly satisfied that the subjects which he wished to have referred, required examination. And he (Mr. M.) was willing to give the gentleman every opportunity of having his wishes fulfilled, and he had stated, at the time, that it would have been better had the committee reported upon these subjects.

Mr. DUNLOP, of Franklin, said that he had not, and was not, opposed to the reference of the subjects, which the gentleman (Mr. INGERSOLL) wished to send to standing committees. But, he did object to their being so referred. He would vote, with pleasure, to refer them to a special committee, if the gentleman would at another time, make a motion to that effect. The subjects were undoubtedly of great importance, and ought to be fully examined and deliberated upon by the Convention. The gentleman from Philadelphia must see, however, that if he persisted in his motion, the gentleman from Adams, who was pledged for the downfall of Masonry, would renew his motion for a committee, which would introduce unpleasant and protracted debates into this body. He hoped, therefore, that the gentleman would withdraw his motion, for it was quite evident that even if the subjects were to be referred to standing commit-

tees, they could not be reported on, as the Convention had voted this morning, that there should be no reports from these committees.

Mr. EARLE, of Philadelphia, thought a course might be proposed which would be satisfactory to every gentleman. He thought they ought to have a committee on the subject of propositions to be added to the Constitution not otherwise referred, and he would suggest to his colleague the propriety of withdrawing a portion of his proposition, for the purpose of allowing him to make this motion. If he would withdraw the proposition for the committee on corporations, and allow him to make the motion indicated, they would then have twelve standing committees. So far as relates to the proposition of the gentleman from Adams in relation to secret societies, he had no objection to its being sent to the people for decision, but he hoped it would be on a different day from the other propositions.

Mr. FORWARD, of Allegheny, hoped the gentleman from Philadelphia was satisfied that there would be no objection to the raising of special committees at a proper time, and that he would for the present withdraw his motion. He had a desire that some report should be made on these subjects, but he did not wish to have them referred to a standing committee which would bring in a naked isolated proposition, as that must be the character of the report if it come from one of the standing committees, as it was proposed at present to raise them. He should much prefer having them sent to a special committee, which would bring in an able and instructive report. He hoped, therefore, the gentleman would withdraw his motion for the present.

Mr. INGERSOLL said as he had now heard from most respectable and intelligent individuals that there would be no objections to the raising of special committees; and in addition to that, as he had been reminded of the adoption of an amendment which precluded the standing committees from making such a report on this subject as he desired, he would withdraw his motion.

Mr. EARLE then moved to amend the amendment by adding the following, "and on new subjects, or matters proposed to be introduced into the Constitution, and not otherwise referred".

Mr. DICKEY, of Beaver, hoped the gentleman would withdraw this amendment. It was important to confine ourselves, first, to the Constitution as given to us by our fathers. New propositions could afterwards be referred to select committees, but it was necessary to bring before the Convention something for its action,

Mr. M'SHERRY, of Adams, hoped that this course would be pursued, and that they would, in the first place, take up the Constitution in the manner proposed by the gentleman from Beaver, (Mr. DICKEY.)

Mr. EARLE was convinced that the proposition he had introduced was the only correct manner of proceeding in this matter. He knew there were many gentlemen who had new ideas they wished to have introduced into the Constitution, and which were not necessarily connected with any particular article of the Constitution, and would you raise a special committee to refer each of these propositions to? He thought not. But it was necessary to have a committee to whom to refer all of these propositions: and the adoption of this amendment will establish a committee of the Convention to which all these new propositions might be sent. He had understood that it was the intention of many gentlemen, to lay on the

able propositions to amend the Constitution, with a view of having them printed; and if this was done, here would be a committee to whom to refer all these matters. He hoped the amendment might be adopted.

Mr. COX, of Somerset, said it did strike him that they had better adhere to the motion submitted by the gentleman from Beaver, namely to refer the nine articles of the Constitution to nine standing committees; and then the gentleman from Philadelphia can introduce any proposition he may desire to have brought to the notice of the Convention by resolution. After the committees are appointed, that gentleman can introduce a resolution instructing the committee on any particular article of the Constitution, to report upon any subject he saw fit; and in this way he can bring his views before the Convention, and, at the same time, bring them to the notice of the standing committees. If the committees should now be appointed, they could be going on preparing their reports, while the Convention, at the same time, could be proceeding with its other business, and by this means time would certainly be saved. If, however, they adopted the proposition of the gentleman from Philadelphia, some other gentleman would rise and move for the appointment of other standing committees, and they would find themselves in a labyrinth of perplexity and confusion.

Mr. BIDDLE, of Philadelphia, said we have now been deliberating for more than a week and yet we have not fairly entered upon the duties for which we have been specially appointed. We all seem to be of opinion that the committees embraced in the amendment of the gentleman from Beaver, (Mr. DICKEY) ought to be appointed. But we do not all agree upon the appointment of standing committees upon other propositions. Let us then adopt the amendment upon which we all agree, the appointment of committees upon the Constitution in all its parts, in order to have something before the Convention for its action.

Mr. DORAN, of Philadelphia, had listened to the arguments of gentlemen on this subject with a great deal of attention, and he would say, without disparagement to the arguments of gentlemen, that his mind was not yet satisfied that there was no necessity for any more than nine standing committees. In those arguments he had heard it said, that we were to confine ourselves entirely to the Constitution. Are we to take up the Constitution as we find it, and say we will adopt that Constitution *in toto*? He hoped not. The people had decided that we were to take up the Constitution, amend, revise, and alter it, and after we had completed our labours, we were to submit it to them to ascertain whether they would agree to it. Now if this was the duty of the Convention, and he believed none doubted it, he would put it to gentlemen whether the subject moved by the gentleman from Philadelphia, was not intimately connected with the Constitution, and whether it would not be expediting our business by raising this additional committee.

The motion of Mr EARLE to amend was then decided in the negative.

Mr. PORTER, of Northampton, said that he feared that the amendment of the gentleman from Beaver, had been so long and so fully discussed, that the Convention had lost sight of the resolution which had been offered by himself. He had no objection to the committees embraced in the amendment, and if his proposition did not contemplate a substitution for the resolution, he would vote for it. He not only wished committees ap-

pointed on the articles of the Constitution, but he also desired at the same time, to go into the committee of the whole, and take up and discuss article by article. He was for going on simultaneously, with a discussion in the committee of the whole, and a consideration of each article in committees, appointed for that purpose. This course will facilitate business. Discussion in committee of the whole will give the standing committees a better knowledge of the wishes of the Convention.

Mr. STEVENS thought the appointment of the nine standing committees would have a tendency to facilitate the labors of the Convention, whereas if they went into committee of the whole on the Constitution at large, they would have a long discussion on each article, before the standing committees would have an opportunity of taking the subject into consideration at all. If they now went into committee of the whole on the Constitution, there would scarcely be any termination of the discussion, and they would be rambling over the whole subject for the next three months, and then the standing committees would just be in the same situation as though they were to be sent out to-morrow morning. Then when these committees reported, you would go into committee of the whole on their reports, and the matter would all be discussed over again. He feared if they once got into committee of the whole, without any check upon the debate, they would extend their discussions so far, that if the millenium was near at hand, as some wise persons apprehended, they would get into it before they terminated their labours.

Mr. EARLE then moved to strike out "nine", in the amendment proposed by Mr. DICKEY, as the number of each committee, and insert "such number as the President may designate". He stated his object to be to have the whole of the delegates in the Convention on committees.

Mr. DICKEY, of Beaver, was opposed to this motion. There were some of the articles of the Constitution, which required the appointment of a larger number than he had named in the amendment. After the committees were appointed, however, and had proceeded to their duty, they could then tell what number was necessary, and would ask the Convention for the appointment of additional members. This was the usual course in the Legislature, and he could see no reason why it should be departed from in this instance.

Mr. M'SHERRY, of Adams, agreed with the gentleman from Beaver.— Besides, he considered that the adoption of the amendment of the gentleman from Philadelphia would throw too great a responsibility on the Chair, and impose upon him an unpleasant duty.

Mr. BANKS, of Mifflin, hoped the gentleman from Philadelphia county would see the propriety of withdrawing his amendment. It must be obvious that a majority of the Convention were favorable to the proposition of the gentleman from Beaver (Mr. DICKEY). Besides, he considered the amendment, if it prevailed, would impose a very onerous duty on the President of the Convention.

The yeas and nays having been demanded,

The amendment of Mr. EARLE was then decided in the negative, yeas 21, nays 104, as follows :

YEAS—Messrs. Brown, of Philadelphia, Butler, Cleavinger, Crawford, Cummin, Donagan, Doran, Earle, Foulkrod, Fry, Grenell, Hamlin, Hayhurst, High, Houpt, Long, Magee, Martin, Overfield, Purviance, Smyth—21.

**— NAYS—**Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Carey, Chandler, of Philadelphia, Chandler, of Chester, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crum, Cunningham, Curll, Darlington, Darrah, Denny, Dickey, Dickerson, Dillinger, Donnell, Farrelly, Fleming, Forward, Fuller, Gamble, Gearhart, Gilmore, Harris, Hastings, Hiester, Henderson, of Allegheny, Henderson, of Dauphin, Hopkinson, Hyde, Ingersoll, Jenks, Keim, Kennedy, Kerr, Konigmacher, Krebs, Lyons, MacLay, Mann, M'Cahen, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Miller, Montgomery, Myers, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Read, Riter, Ritter, Rogers, Royer, Russel, Saeger, Scott, Sellers, Seltzer, Serill, Sheetz, Shellito, Sill, Snively, Stevens, Stickel, Swetland, Taggart, Thomas, Todd, Weidman, White, Woodward, Young, Sergeant, *President*—104.

Mr. EARLE, of Philadelphia, then said he understood that several of the delegates voted against the amendment because it did not fix the number, but left it discretionary with the President, which might leave him liable to censure for the manner in which he should perform this duty. Wishing, therefore, to relieve the President from all blame or censure, or responsibility, in deciding upon the number, he would move to strike out “*nine*”, and insert “*fifteen*”, and called for the yeas and nays.

Mr. DICKEY, of Beaver, said every member of the Convention must perceive at once that it was unnecessary to put fifteen members on some of the committees. It might be necessary if the Convention adopted nine, to enlarge some of the important committees, such as the committees on the legislative, the executive, or the judicial departments, but certainly it was unnecessary that the committee on the oath of office should consist of fifteen members. He hoped this amendment might not prevail.

Mr. STEVENS suggested that the number fifteen would compel too many members of the Convention to serve on more than one committee.

Mr. EARLE knew from the industrious habits of the gentleman from Adams (Mr. STEVENS) that he would have no objection to serve on two committees.

Mr. COX, of Somerset, hoped this amendment might not prevail, unless some better reason could be given in support of it than any he had yet heard.

Mr. CHANDLER, of Philadelphia, enquired whether the call for the yeas and nays had been recorded. There was some doubt in his corner of the house whether they had been.

Mr. MARTIN, of Philadelphia, said he had seconded the call for the yeas and nays, and he hoped the amendment would prevail. They had a right to the yeas and nays, and would take the responsibility of calling them whenever they thought the question of sufficient importance.

Mr. DORAN, of Philadelphia, said it was certainly desirable that all the delegates to the Convention should be employed. If, however, they fixed the number of the committees at nine, there would be but eighty-one, while fifty-one would be unemployed. This he did not consider proper, therefore he should vote for the amendment of his colleague.

Mr. SELTZER, of Lebanon, said if he understood the question, it was that there was proposed to be raised nine committees of nine members each. The amendment contemplated increasing the number to fifteen, and the argument in favor of it was, that then all the delegates would be employed. Now, if he made a correct calculation, nine times fifteen was



one hundred and thirty-five, two more than there were members in the Convention, so that to obviate the objection of some being unemployed, they were to make two do double duty.

The yeas and nays being demanded on the adoption of the amendment, the question was determined in the negative by the following vote ;

**YEAS**—Messrs. Brown, of Philadelphia, Butler, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Earle, Farrelly, Foulkrod, Grenell, Ingersoll, Mann, Martin, M'Caben, Miller, Overfield, Read, Riter, Ritter, Sellers, Scheetz, Shellito, Sterigere, Woodward—26.

**NAYS**—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne, Bedford, Bell, Biddle, Bigelow, Bonham, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crawford, Crum, Cummin, Cunningham, Darlington, Denny, Dickey, Dickerson, Fleming, Forward, Fry, Fuller, Gamble, Gearhart, Gilmore, Hamlin, Harris, Hastings, Hayhurst, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Hopkinson, Houpt, Hyde, Jenks, Keim, Kennedy, Kerr, Konigmacher, Krebs, Long, Lyons, Maclay, Mager, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Myers, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Purviance, Reigart, Rogers, Royer, Russel, Saeger, Scott, Seltzer, Serrill, Sill, Smyth, Suively, Stevens, Stickel, Swetland, Taggart, Thomas, Todd, Weidman, White, Young, Sergeant, *President*—101.

Mr. WOODWARD moved further to amend the amendment, by striking therefrom all after the word "that", and inserting in lieu thereof the following, viz :

"A committee of one member from each Congressional district in the state be appointed to report amendments of the Constitution".

Mr. WOODWARD said he was convinced by all that had transpired in Convention on this subject, that one general committee, composed of members from the several Congressional districts of the State, would be better calculated to report acceptable and proper amendments, than the nine separate and distinct committees, contemplated by the amendment of the gentleman from Beaver (Mr. DICKEY). The gentleman's amendment refers the whole Constitution, article by article, to these committees. Some of these articles require no amendment; and why, therefore, refer them to a standing committee? The people will learn, with surprise, perhaps with regret, that each, and every part of the Constitution, is about to undergo the action of a committee? They will infer, that that which is faultless now, is to be made the subject of amendment. The amendments which they require are few and simple, and these could be reported by one committee, containing a fair representation of the various views of the Convention, in such a shape as to bring the whole subject, in a connected and coherent form, before us. If several committees are charged with reporting amendments in the various parts of the Constitution, referred to them respectively, those committees will act without concert, and be very likely to lead us into a scene of inextricable difficulty and confusion. The propriety of amendments to be reported by one committee, must, in some degree, depend on amendments which another committee may think proper to submit; and how is this connection and dependence of subjects to be preserved amongst nine separate and independent committees; submitting, each, perhaps, a majority and a minority report?

Take, for example, the second article of the Constitution. The committee on that article might agree that the Governor's power of appoint-



ment should be restricted, by requiring the concurrence of one branch of the Legislature; but, perhaps, the committee on the legislative department would think differently, and withhold the necessary correspondent amendment; how is this subject to be brought before the Convention in a reconciled form? Such reports, it seems to me, can only tend to distract and embarrass our deliberations.

Mr. President, it has been urged by some gentlemen that these committees were necessary, in order to divide the labor, and render the burden less onerous than it would be on one committee. Others have advocated a large number of committees on the ground that every delegate should have the honor of a place on one. As to the first of these observations, I believe, sir, the amendments which the people expect from us, and which they, the final arbiters in this business, will agree to adopt, will not be so onerous as to overpower even the feeblest of us, and that one committee will be fully able to prepare them; and as to the honor of a position on any such committee, I will cheerfully yield it, should it fall to me, to any gentleman who desires it, and in compounding one committee, I should hope you would be able to gratify all of that kind of ambition there is in the Convention.

Mr. HAYHURST moved to postpone the amendment to the amendment, together with the amendment and the resolution, for the present.

Mr. BROWN, of Philadelphia, said that it must not be supposed, because gentlemen had urged the adoption of the proposition of the gentleman from Beaver, that they were opposed to all others. After what he had heard from the gentleman from Luzerne, (Mr. WOODWARD) he felt convinced that his proposition would obviate many difficulties, and he therefore hoped that it would be adopted.

Mr. INGERSOLL, of Philadelphia, much preferred the proposition to refer the Constitution to a committee, than to go into a committee of the whole, as was proposed by the gentleman from Northampton. The gentleman from Luzerne had most conclusively shown it to be the proper course.

The question being taken on the motion to postpone, it was decided in the negative.

Mr. MARTIN moved that the Convention do now adjourn; which was negatived.

Mr. M'CAHEN moved to postpone the resolution before the Convention, in order that it might resolve itself into committee of the whole on the first article of the Constitution.

The PRESIDENT said the motion was not then in order.

Mr. READ, of Susquehanna, said that the gentleman from Indiana proposed that the Convention should go into committee of the whole; and (Mr. R.) objected to it. Looking, however, to the practice of legislative bodies, it had struck him as the best course to be pursued by them.—There was a difference between the Legislature and this Convention. The difference was, that in the Legislature the objects were numerous and various, and in this body the objects were simple, and could be seen at once by all the members. The whole Constitution was comprised within a small compass—so small that every member of the Convention had ample time and opportunity, and, he presumed, was desirous to give his attention to every item, article, and line of it. And, those

parts of it which it was proposed to change and alter, as indicated by the expression of public opinion, were still more limited in their extent.— They were confined to some half dozen specific points. Now, this being the fact, and on account of the marked difference between the proceedings of a Convention of this sort, and that of an ordinary legislative body, it seemed to him that it was a sufficient reason why the Convention should dispense with the form of committing, and why they should go into the consideration of this simple subject without having the action of a number of committees on it.

He had, then, after mature reflection and deliberation, come to the conclusion to prefer the proposition of the gentleman from Indiana, to that of the gentleman from Northampton, or even the amendment of the gentleman from Luzerne. He, however, greatly preferred the proposition of the gentleman from Luzerne to that of the gentleman from Beaver. He thought that this subject, so limited in extent as it was, ought to be taken up in committee of the whole, for no man could set up the plea that he had not had time to examine every part of it. It was his determination to vote for the amendment to the amendment. He did not think it was exactly fair to alarm this body, by taking it for granted that should it go into committee of the whole, three months must necessarily be consumed. It was, however, admitted on all hands, that we had been here a long time, taking into consideration the little that we had done. Now, an intimation of that kind might have the effect of preventing many gentlemen from acceding to the proposition of going into committee of the whole on the Constitution. But, he maintained that it did not follow that we must necessarily be three months, or even one week in committee. At any rate it was the way in which he and others desired to proceed in their work of proposing amendments to the Constitution.

Mr. BANKS, of Mifflin, regarded this question one of expediency rather than of principle. Prior to the time when the gentleman from Indiana offered his proposition, he (Mr. B.) had looked into, and examined the proceedings of the Convention of 1789–90, in order to discover what was the proper mode of proceeding. He found, as the gentlemen had stated, that that Convention took up the business in committee of the whole. He (Mr. B.) had doubted as to the propriety of that proceeding, apprehending that the amendments which would be agreed to in the Convention, might not be so perfect in their character as they might be. He looked, also, into the proceedings of the New York Convention, for the purpose of seeing how they proceeded. He found that a committee was appointed to consult together, and report what they deemed to be the proper method of proceeding. That committee recommended exactly the course of proceeding which the gentleman from Beaver contemplated.— Not satisfied with the information he had obtained, he looked likewise to what had been done in the Convention of Virginia, in 1830. They had proceeded precisely in the same manner as the Convention of New York. From the little knowledge he had of legislative proceedings, and from an examination of the manner in which the various Conventions he had mentioned, transacted their business, his mind had been brought to the conclusion, that the course proposed by the gentleman from Beaver was the best that could be adopted. He did not know that the business committed to the Convention would be facilitated or retarded one hour longer, or

made any shorter, than if they were to act on the plan recommended by the gentleman from Luzerne. Suppose that we had the article of the Constitution before us, in relation to the Judiciary, in committee of the whole, without any previous action on that article by a standing committee, what conclusion could we come to? He knew well from the intercourse he had had with the members of the Convention, that they differed widely in opinion as to what ought to be done—as widely almost as could be imagined.—Why, one was in favor of reducing the tenure of office to ten, another to seven, and another even to five years. Nay, he had even heard it said that there were gentlemen here, who were in favor of appointing new Judges of the Supreme Court every six months, after the fashion of the Rhode Island Legislature, (in a legislative point of view,) which meets every six months, and whose members are elected every six months. Believing, then, that it would be at least as difficult for a committee of twenty-eight to despatch the business before the Convention, as for a committee of the whole, he preferred voting for the project of the gentleman from Beaver.

Mr. WOODWARD, of Luzerne, observed that it was to be borne in mind that the Convention of New York, and the Convention of Virginia, were called to make a *new* Constitution. We, on the contrary, had met for the purpose of changing—altering our Constitution—to submit amendments to the old Constitution. With regard to the Convention of Pennsylvania, they went into committee of the whole. But, the Bill of Rights was submitted to a committee, as he (Mr. W.) now proposed should be done.

Mr. DICKEY, of Beaver, remarked, that because every article of the Constitution was to be referred to a committee, it did not follow that it was to be taken for granted that that article was to be amended. The adoption of this course would, doubtless, facilitate the despatch of the business we were met to transact. The committee on the fourth and eighth articles, he understood, would report immediately, so that the Convention would have something for its action. But if the proposition of the gentleman from Luzerne was worth adopting, the proceedings of the Convention would be delayed until after the committee of twenty-eight had reported. An objection had been urged, and that was, that the several committees, on each article, would report a Constitution, which would be incoherent in its parts, and that one committee would encroach upon the province of the other. The people of the commonwealth, he believed, did look to an amendment of the second article. And, he also believed, that any committee to which it might be referred, would report some amendment or amendments, which would not conflict with any of the other articles. He thought it would facilitate the proceedings of the Convention, to let the President appoint the committees; and then we could immediately proceed to business.

The question being taken on the amendment to the amendment, it was decided in the negative.

A division being called, there appeared. Ayes 49—Nays 71.

Mr. M'CAHEN moved that the Convention do now adjourn, which was decided in the negative.

Mr. CLARKE, of Indiana, said he had not troubled the Convention as yet, by calling for the yeas and nays, but, in this case, he did think it was

important that they should be called. He was so impressed with the opinion that the readiest, and best, and simplest way of proceeding, in this case, was to go at once into committee of the whole, that he hoped the Convention would excuse him in making this call. If they were first to go into committee of the whole, and discuss this matter, he would ask whether the standing committees would not then have a better knowledge of the opinions and wishes of the whole Convention, than they otherwise could obtain? The gentleman from Beaver had said that the standing committees would consist of high minded and honorable men. Mr. C. had no doubt of it, as he knew they had such men in this body; but he was not willing, however honorable and intelligent they might be, to make any nine men his conscience keeper; or that any nine men should have the opportunity of forestalling public opinion. When the reports came from these committees, would they not then go into committee of the whole on them? And every gentleman, who had any experience in legislative bodies, knew how difficult it was to contend against the report of a committee. However honest, high minded, or intelligent, the members of the committees might be, he should rather, in the first place, have them know what were the opinions of the whole Convention, expressed in committee of the whole. He would enquire of those gentlemen who had not yet expressed their sentiments to the Convention, how they would like to have their opinions sent forth to the country after public opinion was forestalled by the reports of these committees? They had not met here for the purpose of erecting a new structure, but merely to repair our old one, and he conceived the better mode of proceeding would first be to go through it carefully and see what repairs were necessary, and then they would know how and where to go to work.

Mr. SCOTT, of Philadelphia, said it seemed to be taken for granted that if we adopt the amendment of the gentleman from Beaver, it would preclude the going into committee of the whole. It did not seem to him that the adoption of the one precluded the other. If we pass the amendment, and authorize the appointment of committees on the several articles of the Constitution, we can afterwards go into the committee of the whole, and consider these articles. We can, if we choose, instruct the committees to make a report in conformity to the views of the majority of this body.—He said that he should vote for the proposition of the gentleman from Beaver, while he did not commit himself against the proposition to go into the committee of the whole, nor even against the proposition of the gentleman from Luzerne, which had something captivating about it. The adoption of the proposition of the gentleman from Beaver, would be one step towards business. We could then, if we desired, adopt the plan of the gentleman from Indiana, or, if it should be deemed necessary, in order to embody the views of the several committees, appoint a grand committee of one from each Congressional district. In the Legislature, when a subject was referred to a committee, it was considered out of the House. But he apprehended that it was not the case in this Convention. The Constitution would be always before it, so that we could, at any time, refer it to the committee of the whole, or any other committee.

Mr. DUNLOP, of Franklin, said this question had taken so many turns that it was with some difficulty he could keep in sight of it. He did not conceive that there was any danger in voting for the amendment of the

gentleman from Beaver. of taking from the Convention the power of going into the committee of the whole on any part of the Constitution. Neither would it prevent the Convention from taking up, at any time, any portion of the Constitution which it might see proper. After these committees were appointed, was it not in the power of any delegate in the Convention to bring forward a proposition of amendment, by instructing the committee on a particular article to make such a proposed amendment; and when these amendments were brought forward could they not be discussed? Certainly they could. These propositions might first be discussed, and referred to a committee afterwards. Then, this being the case, he could not see why any gentleman should oppose the amendment of the gentleman from Beaver, proposing to raise nine standing committees on the nine articles of the Constitution. Besides this, the Convention would have the power, at any time, to take from any of the committees a portion of their business, or to instruct them to make any report which the Convention might choose. The Convention and the committees might be deliberating at the same time, on the same proposition; then how could it be said that the appointment of these committees would be delaying the business of the Convention?

Mr. BROWN, of Philadelphia, then moved an amendment, "that the Convention will go into the committee of the whole every day, to see what amendments are necessary to the Constitution of the commonwealth".

Mr. FORWARD thought it would be entirely inexpedient to go into committee of the whole at this time. Every gentleman who had a desire, might submit his views in the shape of resolutions, directing one of the committees to enquire into the expediency of making certain amendments to the Constitution; and by these resolutions being printed and laid upon the tables, every gentleman would be instructed, and aided in his own private deliberations. He hoped the amendment of the gentleman from Beaver would prevail.

Mr. BROWN then withdrew his amendment.

The amendment of Mr. DICKEY was then agreed to, yeas 73, nays 52, as follows:

YEAS—Messrs. Ayres, Agnew, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bell, Biddle, Brown, of Lancaster, Carey, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Donagan, Doran, Dunlop, Fleming, Forward, Gilmore, Harris, Hastings, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Hout, Ingersoll, Jenks, Kerr, Konigmacher, Long, M'Call, M'Dowell, M'Sherry, Meredith, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Reigart, Riter, Rogers, Royer, Russel, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Stevens, Thomas, Todd, Weidman, Young, Sergeant, *President*—73.

NAYS—Messrs. Bedford, Bigelow, Bonham, Brown, of Philadelphia, Butler, Clarke, of Indiana, Cleavinger, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donnell, Earle, Farrelly, Foulkrod, Fuller, Gamble, Gearhart, Grenell, Hamlin, Hayhurst, Helfenstein, High, Hyde, Keim, Kennedy, Krebs, Lyons, Maclay, Magee, Mann, M'Cahe, Merrill, Miller, Myers, Overfield, Porter, of Northampton, Purviance, Read, Ritter, Sellers, Scheetz, Shellito, Smyth, Sterigere, Stickel, Swetland, Taggart, White, Woodward—52.

The resolution, as amended, was then agreed to, when

The Convention adjourned.

WEDNESDAY, MAY 10, 1837.

The PRESIDENT announced, that in conformity with a resolution of the Convention, adopted yesterday, he had appointed the following committees on the several articles of the Constitution, namely :

ON ARTICLE I.

Messrs. DENNY, BANKS, BARNITZ, MACLAY, M. HENDERSON, STENGERE, KENNEDY, PURVIANCE, WHITE.

ON ARTICLE II.

Messrs. STEVENS, INGERSOLL, MEREDITH, BELL, J. PORTER, DICKERSON, DARLINGTON, AYRES, OVERFIELD.

ON ARTICLE III.

Messrs. CUNNINGHAM, JOHN CLARKE, ROGERS, EARLE, CLAPP, FOULROD, JENKS, LYONS, SAEGER.

ON ARTICLE IV.

Messrs. JAMES CLARKE, BIDDLE, SMYTH, CLEAVINGER, M'DOWELL, BAYNE, KERR, FARRELLY, FRY.

ON ARTICLE V.

Messrs. HOPKINSON, CHAMBERS, WOODWARD, MERRILL, HANLIN, FLEMING, WEIDMAN, BARCLAY, JOHN CHANDLER.

ON ARTICLE VI.

Messrs. READ, CHAUNCFY, DUNLOP, TAGGART, HIESTER, FULLER, CUMMIN, ROYER, DONNEL.

ON ARTICLE VII.

Messrs. FORWARD, J. R. CHANDLER, G. W. RITER, SILL, KEIM. REGART, POLLOCK, MARTIN, SELLERS.

ON ARTICLE VIII.

Messrs. DICKEY, W. CLARK, LONG, MANN, SERRILL, SNIVELY, GAMBLE, TODD, COCHRAN.

ON ARTICLE IX.

Messrs. J. M. PORTER, M'SHERRY, SCOTT, COX, L. COATES, CRAIN, CLINE, AGNEW, SCHEETZ.

Mr. INGERSOLL submitted the following resolution, which was read a second time, considered and adopted :

*Resolved*, That the subjects of the currency, corporations, the public highways and eminent domain of the State, be referred to a special committee to report thereon to this Convention, and that the subjects of the public improvements, loans and debts of the State be referred to another special committee to report thereon to this Convention.

Whereupon it was

*Ordered*, That Messrs. INGERSOLL, RUSSEL, MYERS, BALDWIN, CRAIG, DARRAH, HARRIS, W. BROWN, and CRUM, be the committee for the purposes expressed in the first branch of the resolution; and that Messrs. STEVENS, DONAGAN, PENNYPACKER, GILMORE, W. HENDERSON, YOUNG, MILLER, J. BROWN, and BUTLER, be the committee for the purposes expressed in the second branch of the resolution.

Mr. BROWN, of Philadelphia, submitted the following resolutions, which were laid on the table, and ordered to be printed.



## ARTICLE I.

*Resolved*, That the legislative department of the Constitution of the Commonwealth, ought to be amended.

**FIRST.** By taking from it the veto power of the Governor; or, if retained, substituting three fifths of both houses, as necessary to pass a law, instead of two thirds as at present.

**SECOND.** By limiting the term of service of Senators to two years, instead of four.

**THIRD.** By prohibiting the Legislature from passing in the same "act," laws relating to subjects unconnected with each other.

**FOURTH.** By restricting the Legislature in granting special acts of incorporation, to associations for internal improvements for transportation, or for municipal government; and requiring all other acts of incorporation to be by general laws, equally free and open to all citizens.

**FIFTH.** By requiring the Legislature to meet on the second Tuesday in January, instead of the first Tuesday in December, as at present.

**SIXTH.** By requiring all laws to be originated in the House of Representatives.

**SEVENTH.** By prohibiting any city, borough, or district incorporated for municipal government, from holding any real estate other than what is used for public purposes, or connected with its public establishments.

## ARTICLE II.

*Resolved*, That the executive departments of this Commonwealth ought to be amended.

**FIRST.** By reducing the term of service of the Governor to two years, and his eligibility to only four years out of six

**SECOND.** By taking from the Governor the appointment of all officers, other than those connected with the state executive departments, as Secretary of State, Auditor General, Surveyor General, Secretary of the Land office, and their assistants, and requiring the concurrence of the Senate to the appointment of the heads of those departments.

## ARTICLE III.

*Resolved*, That article third, section first, of the Constitution of this Commonwealth, ought to be amended;

**FIRST.** By giving the rights of an elector to every citizen of the United States, native or naturalized, of the age of twenty-one years, who shall have resided in this state six months preceding the election.

**SECOND.** By taking from it the tax qualification.

## ARTICLE V.

*Resolved*, That the Judiciary department of the Constitution of this Commonwealth, ought to be amended.

**FIRST.** By limiting the term of office of the Judges of the Supreme court to five years, and by giving their appointments to the joint vote of both Houses of the Legislature; one Judge to be appointed annually.

**SECOND.** By limiting the term of office of the President Judge of the District and County courts to three years, and giving their appointment to the joint vote of both Houses of the Legislature, and by limiting the term of office of the Associate Judges to two years; one to be elected annually by the citizens of each county.

**THIRD.** That Justices of the Peace shall be elected by the citizens of each ward, district, or township, and shall hold their offices for three years.

## ARTICLE VI.

*Resolved*, That article sixth of the Constitution of this Commonwealth, ought to be amended:

**FIRST.** That the citizens of each county in the state shall elect their Sheriff, Coroner, Prothonotary, Register, and Recorder, County Commissioners, and such other county officers as conveniently can by them be so elected, to hold their offices for three years.

**SECOND.** That the citizens of each of the wards, districts, or townships, now established in this Commonwealth, or that may hereafter be established by law, shall, beside the powers that may be given them by law, elect on the third Friday of March, annually,

Mr. WEIDMAN, of Lebanon, was opposed to the appointment of any other committees to propose amendments to the Constitution of Pennsylvania, and he was opposed to it, because, he heard the still small voice of his constituents proclaiming to him to resist all amendments to this compact. The counties of Dauphin and Lebanon, which he had the honor to represent, by a vote which they gave on the question of calling the Convention, proclaimed loudly their entire satisfaction with the present Constitution. The vote in those two counties amounted to about 5202, and of that number 3661, were against the call of a Convention, leaving a majority against the call of a Convention of upwards of 1120 votes. It was upon these grounds he rose to say to this Convention, that, so far as his constituents were concerned, they had, by a strong and a loud voice, proclaimed their entire satisfaction with the Constitution as it was. He was, therefore, opposed to the appointment of any committees for the purpose of enquiring whether any further amendments to the Constitution were necessary, until they had a report from the standing committees appointed by the direction of the Convention. He was opposed to it, because his constituents had instructed him, by the only mode and manner in which he believed the voice of the people could be fairly heard, namely, through the ballot box; and when this question was fairly put to them they said they were satisfied with the Constitution. He had not as yet heard any sufficient reason for departing from the instructions of his constituents, and from the opinions he had ever entertained on the subject. From the time the question was first agitated, his sentiments had been known to all, and so far as they were known to his constituents, he would beg leave to represent them to the Convention. That Constitution, which it was now proposed to alter, had been framed by men who were taught the principles of democracy in a seven years' war; they were taught in a school which tried the reins of men; they were taught in a school where the principles of democracy were proclaimed for many years prior to those convulsions which agitated the whole Union, and eventually terminated in the establishment of our present form of government. They were schooled in their principles by a Washington, a Jefferson, and a Madison; by men whose characters we reverence, and whose reputations we esteem; and by men who have been the greatest reformers in any nation on the face of the earth. These men, fond of the people's rights, fond of the rights of mankind, he conceived, framed the Constitution wisely, and not inconsistently with the principles of democracy. While on the one hand, they were anxious to tolerate the power of the Legislature, on the other, they clothed the people with sufficient authority to keep it in check. While they gave the Legislative department of the government the right to exercise certain powers, they left in the hands of the people the means of controlling those powers. In giving power and authority to the Legislative department, they left the control of that power in the hands of the people, giving to them the selection of their representatives annually, so that the wants and necessities of the people might be brought to the notice of the Legislature from every county in the State yearly, and if the representatives neglected those wants, or abused their trust, the people could remedy the evil at the ensuing election, and take from their representatives that power they had abused. It was necessary that great and extensive power, should be conferred on the Legislature; it was necessary, that, like the

daws of heaven, their protective influence should fall upon all ; and like the light of the sun's rays, should penetrate every corner of the State. But, at the same time, these powers were conferred, the people reserved the control of them, and could bring back the representative to a faithful discharge of duty if he departed from it. It had been asserted, and he believed was a prevailing opinion with some, that the Legislature had abused the power conferred upon it ; and they contended that this power ought to be taken away and vested somewhere else. He conceived, however, that they could not be better delegated than under the present Constitution. He did not believe in the abuse of this power, though the agent might differ on the question of expediency of measures, and the representative be mistaken. The power of the Legislature must be co-extensive with the protection of life, liberty, property and reputation. If delegated at all, it must be entrusted to agents, and the present mode of election, he believed, was as good as any he had yet heard suggested.

It was also said that the Executive power was too extensive ; that the Executive had too much control in the Commonwealth, and that the appointment of the county officers should be taken from him, and that they should be elected by the people of the respective counties. In relation to this, however, he would call the attention of the Convention to the question, how far the election of county officers would effect the general intelligence of the community. The triennial elections might be warm, and draw forth the fierce passions of politicians : yet the intelligence gained by the whole community by coming in conflict, discussing the principles of government, and the general policy of the administration was of much more importance to the people whom government rested on for their information and intelligence. He deemed it a question worthy the serious consideration of the Convention whether the taking away this power from the Executive would not be a greater evil than a benefit. The judiciary is another branch of the Government which seems to be not agreeable to many members of the Convention, and perhaps many citizens of the Commonwealth. It is said that the term of office is too long and that it ought to be under the control of the Legislature. The framers of our Constitution never had it in contemplation that the judiciary should be subject to the will of the Legislature ; and he conceived that the control was infinitely better in the hands in which it was at present, than to be subject to the control of a political Legislature. The inevitable tendency would be to make all our Judges politicians ; and he should consider it a lamentable day for Pennsylvania when the judges of our courts were subject to the will of the different parties in the Legislature.

He was opposed, therefore, at this time, to any more committees being appointed, until they should have a report from those already appointed, which would give a full view of the whole subject, and from which he thought they could obtain sufficient information.

Mr. DARLINGTON hoped the gentleman from the county of Philadelphia would see the propriety of letting the matter lie over till to-morrow.

Mr. BROWN, of Philadelphia, remarked, that there seemed to be a misapprehension in regard to the motion of his colleague. It did not propose to make an amendment in the Constitution, but merely proposed a plan, by which future amendments could be made by the people.

*consent of the Senate.* But no person shall be appointed to an office, within any county, who shall not have been a citizen and inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of Congress from this State, or any person holding or exercising any office of trust or profit under the United States, shall at the same time hold or exercise the office of Judge, Secretary, Treasurer, Prothonotary, Register of wills, Recorder of deeds, Sheriff, or any office in this State, to which a salary is by law annexed, or any other office which future Legislatures shall declare incompatible with offices or appointments under the United States.

*Resolved,* That the said article ought to be further amended, by inserting next after the eighth section, a section to be called section ninth, as follows, viz :

**SECT. 9.** Prothonotaries, Clerks of the several courts, Registers and Recorders of deeds of the several counties, shall be elected by the people, and provision shall be made by law, prescribing the number of persons who shall hold the said office in each county and the mode of their election.

*Resolved,* That the said article ought to be further amended, that the present ninth section be called the tenth section, and be as follows, viz :

**SECT. 10.** The Governor shall have power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment, *but in all cases of felony, pardons shall be granted by, and with the advice and consent of the Senate.*

*Resolved,* That the third article of the said Constitution ought to be so amended, that the first section shall be as follows, viz :

**SECT. 1.** In elections by the citizens, every freeman of the age of twenty-one years, having resided in the State *one* year next before the election, and within that time paid a state or county tax, which shall have been assessed at least six months before the election, or shall have performed military duty, or have labored on the public highways in pursuance of law, shall enjoy the rights of an elector. *Provided, that young men between the ages of twenty-one and twenty-two, whose health has disabled them from doing military duty, or who shall not have been notified to labor on the public highways, and who shall be otherwise qualified, shall be entitled to vote, although they shall not have been assessed, paid taxes, done military duty, or labored on the public highways.*

*Resolved,* That the fifth article of the Constitution ought to be so amended that the tenth section shall be as follows, viz :

**SECT. 10.** The Governor by and with the advice and consent of the Senate, shall appoint Justices of the Peace in such convenient districts, and in such proportion to the number of taxable inhabitants in each county, as are or shall be directed by law. They shall be commissioned during good behaviour, but may be removed on conviction of misbehaviour in office, or of any infamous crime, or by the Governor, by and with the advice and consent of the Senate.

*Resolved,* That the sixth article ought to be amended so that the second section shall be as follows, viz :

**SECT. 2.** The freemen of this Commonwealth shall *be enrolled, and when by law required, shall be armed,* disciplined and organised for its defence; those who conscientiously scruple to bear arms, shall not be compelled to do so, and the mode of manifesting those scruples shall be prescribed by law.

*Resolved,* That the action of this Convention will not, and, of right, ought not, to cause a vacancy in any office of this Commonwealth.

**Mr. KEIM,** of Berks, offered the following resolution :

*Resolved,* That the prices paid for the printing, by the last Legislature, serve as a standard for the prices to be paid for the printing to be done for this Convention.

The resolution having been read a first and second time, was, on motion of **Mr. Cox,** referred to the committee on Printing.

**Mr. STEVENS,** of Adams, offered the following resolution, which was read and laid on the table :

*Resolved,* That article nine, item six, of the Bill of Rights, be made to read as follows :

The trial by jury shall remain as heretofore, and shall be secured to every human being, in all cases where his life or liberty is in question, and the right thereof shall remain inviolate.

Mr. REIGART, of Lancaster, offered the following resolution, which was read and laid on the table :

*Resolved*, That the legislative power, so far as relates to the chartering of incorporated companies, ought to be restricted, and that no act of incorporation which may be futurely enacted, ought to continue in force for a longer period than twenty years, without the renewed action of the Legislature in its favor, except incorporations for public improvements, where two thirds of the Legislature may concur in passing the same.

Mr. M'DOWELL, of Bucks, offered the following resolution, which was laid on the table :

*Resolved*, That the second section of the first article of the Constitution be so amended, that the annual election of State and county officers be held on the first Thursday and Friday of September.

That the tenth section of the same article be so amended, that the General Assembly shall meet on the first Monday of November, in every year.

That the second section of the second article be so amended, that the election of Governor shall take place on the first Thursday and Friday of September, in every third year.

That the third section of the same article be so amended, that the Governor shall hold his office during three years, from the first Thursday in September next ensuing his election, and shall not be capable of holding it longer than six years, in any term of nine.

That the fourth section of the same article be so amended, that the Governor shall be thirty-five years of age, at the time of his election.

Mr. BELL offered the following resolution, which was laid on the table :

*Resolved*, That the standing committee, on article fifth of the Constitution, be instructed to enquire into the expediency of providing for the appointment of Justices of the Peace, for a term of years, by the Governor, by and with the advice and consent of the Senate, the said Justices to be removable for official misconduct, by the superior court of the proper county, upon complaint made and duly proved.

Mr. STERIGERE offered the following resolution, which was referred to the committee on Printing :

*Resolved*, That five thousand copies of the journal of the Convention and committee of the whole, and of the debates, in English, be printed, on good paper, in royal octavo form, with long primer type, the yeas and nays to be inserted in solid paragraphs ; five hundred of which shall be deposited, in the office of the Secretary of the Commonwealth, to be distributed as the Legislature may direct ; and twenty copies in the State Library ; and that ten copies be transmitted to the Congressional Library, at Washington ; ten copies to each public library in the city and county of Philadelphia, city of Lancaster, and city of Pittsburg, and two copies to each other public library, lyceum, or scientific association in the State ; one copy to the office of each Prothonotary, Recorder, Register and Clerk of any court, to remain in their respective offices ; one copy to the Governor and heads of department, each ; two copies to each Senator and member of the House of Representatives of the United States, from this State ; two copies to each member of the Legislature of this State ; one copy to each Judge of each court in the State ; one copy to each postmaster in the State ; one copy to the editor or publisher of each public journal, periodical or newspaper in the State ; and one copy to each of such other places, not exceeding five, as each delegate may direct, which may be best calculated for public information, and that the residue be divided among the Delegates and Secretaries of the Convention, for distribution among their constituents. That five thousand copies of the said journal and debates, in German, be printed in manner aforesaid ; two hundred of which shall be deposited in the office of the Secretary of the Commonwealth, to be distributed as the Legislature may direct ; and five copies in the State Library ; and that two copies be transmitted to each member of Congress, and of the Legislature of the State ; and one copy to each other library, office, officer, or person and place above mentioned, in relation to the distribution of the English journal and debates ; and that the residue be distributed as provided for the distribution of the residue of the English



journal and debates ; and that the Secretaries cause such copies to be carefully folded and transmitted as aforesaid, by mail, from time to time, as the same may be printed, the postage on which shall be paid as a part of the contingent expenses of this Convention.

Mr. PURVIANCE offered the following resolution :

*Resolved*, That the standing committees on the several articles of the Constitution, be instructed to report as follows, viz :

1. Against the re-eligibility of the Executive.
3. In favor of a reduction of Executive patronage.
3. In favor of a change of the time of meeting of the Legislature.
4. In favor of a change of official tenure of the judiciary.
5. In favor of electing all county officers.
6. In favor of dispensing with a tax qualification in the right of suffrage
7. In favor of dispensing with, or further restricting the veto power of the Executive.
8. In favor of future amendments.

The resolution having been read a first and second time,

Mr. PORTER, of Northampton, moved that the Convention resolve itself into a committee of the whole, on the said resolutions.

Mr. DICKEY, of Beaver, remarked that he was opposed to going into committee of the whole, until the standing committees to which the several subjects embraced in the resolutions, referred this morning, were allowed time to report. Nothing could possibly be gained by such a course, and it would greatly retard the business of the Convention. If the object of the gentleman from Butler was to obtain the speedy action of the Convention on those important subjects, then it would be best gained by suffering the appropriate standing committees to proceed with the consideration of them. He was not opposed to going into committee of the whole at a proper time. He expected that the Convention would do so. He, therefore, hoped that, for the present, the gentleman would allow his resolution to be laid on the table.

Mr. PURVIANCE said that, in offering the resolution, he was not aware of the extent, to which it would lead the discussions of this body. Gentlemen from different sections of the State, had submitted plans of Constitutions amplified into details, upon which the Convention could not, as yet, be prepared to act, until the report of the respective committees. My resolution (continued Mr. P.) proposes nothing more, than to obtain the action of the Convention upon the leading and general features of the proposed amendments, leaving the committee to carry out the details, and submit them to the consideration of the Convention.

Sir, I am extremely anxious to expedite the business of the Convention, by giving the committees such instructions as will enable them to act, not only promptly but understandingly. By passing over the several propositions, in the resolution under consideration, members of the several committees will be disposed to yield their individual opinions to the expressed action of the body, of which they are but constituent parts, and will feel disposed to make a report, in accordance with the expressed will of, perhaps, a large majority of the Convention. The course pointed out by my resolution, is not at variance with any decision of the Convention, but, on the contrary, is commendatory of the one contended for by the gentleman from the city (Mr. SCOTT), as well as the gentleman from Franklin (Mr. DUNLOP). I understand both those gentlemen to say, they would vote in favor of going into committee of the whole, even after



the appointment of standing committees. A vote on the propositions contained in my resolution, will enable us to know whether any alterations are to be made in the present Constitution, and if a majority should determine that no alterations are to be made, it is useless to make any reference to committees. I am anxious to meet the question at once; the question has been at issue for years, and decided by a majority of 13,000 at the ballot boxes.

Mr. PORTER, of Northampton, remarked that when he made the motion yesterday to go into committee of the whole, he did so because he thought it was the best course that could be adopted. The Convention had decided upon considering the various articles of the Constitution in that way, as greater latitude for discussion would be given than in Convention. Yesterday when the amendment of the gentleman from Beaver was proposed, it was remarked by that gentleman, and the gentleman from Philadelphia county (Mr. INGERSOLL), that the reference of the various articles of the Constitution to standing committees would not prevent a full and free discussion on the subject, before those committees should have acted on them. Many gentlemen, he believed, had voted for the reference under that impression. He (Mr. P.) confessed that he apprehended there would be difficulty in doing so. He thought the gentleman from Beaver was too late in making his objection, for the Convention had decided to consider it; and the only question was, as to how that should be done.

Mr. DENNY, of Allegheny, thought there was some little irregularity with regard to the order in which the subjects should come up. The gentleman from Butler (Mr. PURVIANCE) had presented a series of resolutions, which, if they should be adopted, would amount to instructions to the various standing committees. There was another proposition, also, made by the gentleman from Northampton (Mr. PORTER), that the Convention should resolve itself into a committee of the whole, to consider the resolutions of the gentleman from Butler. Now, he (Mr. DENNY) did not think it was altogether a regular course of proceeding, whether the Convention should resolve itself into committee or—

Mr. EARLE, of Philadelphia, enquired of the President what had been the first motion that was made.

The PRESIDENT said, the first motion was, that it be referred to the committee of the whole. The motion to go into committee of the whole therefore, would, not be in order.

Mr. EARLE : The first proposition was—

Mr. PORTER understood that the Convention would proceed to the consideration of the resolutions, and he then moved that the Convention resolve itself into committee of the whole for the purpose of considering them.

Mr. DENNY : I have no objection to go into committee of the whole.— But, I do not think that the committee should be tied down to the propositions of the gentleman from Butler. Let all the others come in.

Mr. STEVENS, of Adams : We should not get along regularly.

Mr. EARLE called the gentleman to order. He presumed that the question was not debateable.

Mr. STEVENS : We shall not get at any thing at all until the committees report. I move that the Convention do now adjourn.

Mr. DUNLOP, of Franklin, liked the propositions, and would agree to go into committee of the whole at the proper time. He moved that the subject be postponed for the present, and that the resolutions be laid on the table and printed.

Mr. STEVENS here withdrew his motion to adjourn.

Mr. FULLER was opposed to a postponement. It appeared to him that the several committees which had been appointed would require all the information they could get. He conceived that the sense of the Convention on the different propositions, if ascertained, would greatly assist the committees in coming to a decision on the various subjects upon which they would have to deliberate. He had no particular desire to go into committee of the whole, unless it was deemed expedient to do so. He thought it was understood by the Convention yesterday, when the gentleman's (Mr. DICKEY's) amendment was adopted, that they should then go into committee of the whole for the purpose of instructing the standing committees. But now, another proposition was started by the gentlemen from Beaver and Franklin, and the gentleman from Adams would do nothing until the committees should report. He (Mr. F.) was altogether against delay, and was at a loss to divine why the committees should go out without receiving instructions. He repeated that he wanted to hear some discussion on the subject referred to the committees, and was entirely opposed to postponing the matter.

Mr. DUNLOP, of Franklin, hoped that these propositions would all be printed, so that we might be able to see what they were, and then if any gentleman had a desire to be heard on the subject he had no objections. He liked the resolutions well enough, and did not know but that he might vote for them with the exception of one or two ; but he hoped gentlemen would allow them the privilege of having all their propositions printed, so that every gentleman might have a copy, and know what it was they were discussing about.

Mr. DICKEY, of Beaver, said, in addition to the objections urged by the gentleman from Franklin, (M. DUNLOP) there was another, which, to his mind, was inseparable, and if any gentleman who heard him on yesterday, understood him, he must be satisfied that they ought not now to go into committee of the whole. If they should now go into committee of the whole on the proposition submitted by the gentleman from Butler, they would find themselves, not considering the Constitution of Pennsylvania, but a proposition going to instruct their committees as to the manner in which they should report. Now, he should prefer having these propositions take the same course of other resolutions, and when they come up, let them be referred to separate standing committees. If, however, they went into committee of the whole on these resolutions, they would not find themselves discussing the Constitution, but this proposition of instruction, and then some gentleman might rise and move to amend by striking out this proposition, and inserting his favourite measure, and they would be running on from one thing to another, which would lead to no beneficial result. He had no objection to gentlemen spreading their views before the Convention, and having them printed and referred to a standing committee, so that when those committees reported they would come up in order, and if gentlemen did not like the report of the committee they could move to strike it out and insert their own

propositions. But he hoped they would not now go into committee of the whole on these propositions.

Mr. M'CAHEN, of Philadelphia, was in favor of the motion to postpone and print, but not for the reasons given by the gentleman from Beaver. Even after they had referred these subjects to the standing committees, it would be necessary afterwards to bring them distinctly before the Convention. He found, upon reference to the committee on the subject of the judiciary, that eight out of the nine members of that committee were of the profession of the law. This might be all proper enough, that the judiciary department of the state should be committed to the hands of lawyers, still it would have its influence upon the deliberations of the Convention itself. From the position in which the committees were placed, being required only to report amendments to the Constitution, and from the constitution of the judiciary committee, it was but fair to presume that that committee would report without amendment. Believing, however, that this subject would meet with proper attention when they got into committee of the whole, he would for the present vote in favor of a postponement.

Mr. INGERSOLL, of Philadelphia, begged leave to say a word or two on this subject, as it seemed to him the question was not properly understood. These propositions were so very plain and simple, as seemed to him not to require being printed before they were acted on. With the exception of the veto power, the rest were all of the same character, and it seemed to him they ought to obtain the sense of the body upon the simple proposition, whether it was the disposition of the Convention to increase or decrease the power conferred, by what every body knew by the title of the aristocratic part of the Constitution, and he supposed all the members of the Convention were ready and desirous to record their votes upon this simple proposition. It appeared to him that the sentiments of the delegates to the Convention could be ascertained by yeas and nays, as well now as months hence. That is to say, the simple "aye" or "no", whether the principle that the sovereignty of the people should stand where it is, or be carried further in the Constitution. He thanked the gentleman from Butler for submitting this proposition in the form in which he has submitted it, and, for his own part, with the exception mentioned above, his mind was made up, and he was ready and anxious to say "yea" to it.

Mr. DUNLOP, of Franklin, said the gentleman from Philadelphia county (Mr. INGERSOLL) reminded him of a certain gentleman who went a rocking, and because he went a rocking he would have no other fish than a rock. The gentleman's mind was made up for highways, and corporations, and eminent domain, and every thing else he considered of but little consequence. Now, Mr. D., was somewhat in the situation of a modern politician in relation to these amendments as yet; he was non-committal on the whole of them, until he, as Davy Crockett would say, was led up to the trough. He was disposed to limit the power of the Governor, but as yet he did not know how they were to do it. He should be glad to have some little revolution in relation to the appointment of county officers, but he did not yet know how that was to be done, for he imagined if they were to go into an election for county officers, they would find the subject full of difficulty enough. In some of the counties, the officers

were divided among four or five, and in others, among only two or three, and how they were to arrange it was more than he was able to say. With regard to the veto power there was a vast deal to be said. He considered the propositions of entirely too much importance to be acted upon at the present time, and he hoped they would be printed, so that they would have an opportunity of examining before they were brought to vote upon the subject.

Mr. FORWARD, of Allegheny, would be perfectly prepared to vote on some of these propositions, but if you go into committee of the whole are they not subject to amendment, and did gentlemen really suppose they would be able to send these propositions to one of the standing committees as they now appeared? Why, if they went into committee of the whole, would not every proposition, which had been brought before the Convention, be before the committee? Suppose, too, they were to take the vote on these propositions, he did not suppose there would be ten gentlemen who would not express a desire that the power of the Executive should be reduced, but the question was where should this power be deposited? He was opposed to going into committee of the whole to-day, as he did not see why they should rush into this matter. He confessed that he felt somewhat diffident on the subject of amending the Constitution, and he did not think this Hall was the only place in which they were to be informed on the subject; and he did not think this was the only place where new ideas were to be gathered. He had conversed freely on the subject of proposing amendments to the Constitution, and he was not afraid to converse a little longer, and he confessed he had gained as much information out of this Hall, as in it. He desired to see all these propositions printed before he voted upon them, and he should have no objection to adjourn over until the day after to-morrow, to take the subject into consideration. If other gentlemen were prepared to vote on all these propositions, he desired to see them in print, and reflect upon them before he gave his vote.

Mr. BROWN, of Philadelphia, said he was indifferent whether the motion was postponed for the present or not, but if it was understood or intended to put off the consideration of the subjects contained in the proposition of the gentleman from Butler, until the standing committees had time to report what amendments they might think ought to be adopted by the Convention, he would resist any such delay. They were told, he said, yesterday, by the friends of the standing committee project, that if it was agreed to, the Convention would still go on to discuss the several propositions and amendments that might be offered, and, if it was desired, the committees would be instructed what amendments to propose. He suspected then, it was but to lull the friends of free and full discussion into security, until these committees were appointed; and now he felt the truth of his suspicions to be realised. Is it (said he,) intended to stifle the voice of the Convention—to postpone to the last what ought to be done at the first: In all candor and in all fairness give every member an opportunity to state the amendments his constituents desire and will approve—and where can it be better delivered than in this hall—here in open discussion, before the assembled Representatives of the State? Will it be better heard and considered before a committee of nine in this body, who, perhaps, may all differ in their views from the rest of this

Convention. I, said Mr. BROWN, will submit to no such tribunal. Here in this Hall I will be heard, and this Convention shall determine whether what my constituents ask shall be granted or refused; I will submit to the judgment of no other jury; and, Sir, with no disrespect to your appointment, a "packed jury", known beforehand to have prejudged the case and declared against reform—against all amendments. Mr. B. said he stood here the friend of sound and substantial reform—he was here to demand of this Convention to restore to the freemen he represents the rights, privileges and liberties, of which they had been unjustly deprived; and gentlemen mistook them and him, if they expected to rivet their chains, or hush his voice by the reports of committees prepared for the purpose. He called on every friend of reform, no matter how much or little reform he desired, to resist this attempt at forestalling the judgment of the Convention. He hoped they would not suffer themselves to be led any further into the snares of the opponents of all reform. He trusted they would come out now and make the committees hear their voice, whatever that voice might be.

The gentleman from Allegheny says, we are not ready to express our opinions on the various propositions for amendments—that his mind had changed since his arrival here by conversations out of this Convention. Mr. B. feared these influences out of the Convention would go farther to control the action of the Convention than all that was said in it; and it was now, before these influences had warped or bound the minds and judgments of members, that he was anxious we should reason with each other, face to face—this was what we were all sent here for, not to divide ourselves into committees secretly to be influenced, and then secretly to influence others. We have seen already how difficult it is to effect any change in the report of a committee, even when it was agreed by all that the change was necessary; we have seen what shifting, doubling and secret out door working was necessary to get clear of the decision of this Convention, for the purpose of carrying out the report of this committee—he meant the report of the committee on rules, relating to the standing committees. Will gentlemen then, with this experience before them, suffer themselves to be deluded into the toils of other committees, who, from their very composition will, unless otherwise instructed, report no amendments, or only such as would be but an insult to the people of Pennsylvania, to offer for their adoption.

Mr. MERRILL, of Union, said: My peculiar situation induces me to speak. I was yesterday in favor of going into committee of the whole. The Convention decided otherwise and I always submit to the majority. I learned so much republicanism in my youth. My own propositions were offered, without expecting them to be considered more. The gentleman (Mr. INGERSOLL,) before me, was yesterday opposed to a committee of the whole, but to-day, seems to think it not so bad a thing. The propositions of the gentleman from Butler, (Mr. PURVIANCE,) may be amended, and other propositions heaped on them, till we shall come into inextricable confusion. I am opposed to going into the consideration of these propositions, till the committees shall report. We can then take up the reports as starting points, and as matters to be considered, amended or adopted.

I am besides, opposed to this continual change of course of procedure.



When the Convention has determined to pursue a course, I like to have it adhered to. Besides, why should we instruct a committee? What is the use of a committee, if we tell them what to do? I am glad to hear the gentleman from Allegheny (Mr. FORWARD) say he was not ready to vote on these propositions—I refused to be ready before I was elected—I came here to gain information, to hear all that can be urged, and after full consideration to decide. Those things are too important to be decided in a hurry. I am therefore in favor of the postponement.

Mr. PORTER, of Northampton, said that when he made the motion to go into committee of the whole, it was not from any idea of acting precipitately, or hastily on the subject, as the gentleman from Allegheny, and others, seemed to suppose. He (Mr. P.) thought that the Convention ought to go into committee of the whole, in order to give instructions to the committees. He wanted the sense of the Convention on this point, whether they were to instruct the committees, or the committees to instruct them. If it was determined that there should be no discussion, then he would raise his voice in protestation against any such proceeding. He desired, and the people desired, that every proposition that came up should be freely and properly discussed, and fairly decided upon. He maintained that it was particularly necessary that the opinions and views of the body should be made known to the committees. Where, and how were they to get that very requisite information, unless they obtained it before they reported? They would be acting upon the propositions, without light, without information. And, why should we say to them—"you shall not receive light; you shall not receive instructions"? He found a gentleman, one day, who was willing to go into committee of the whole, the very next, voting against the proposition. One gentleman, too, who had amended his (Mr. P's.) motion, to take up each article *seriatim*, he found, on the following day, voting against all the motions. The same gentleman also voted against the amendment of the gentleman from Beaver. He (Mr. P.) would conclude by expressing his hope, that the Convention would resolve itself into a committee of the whole.

Mr. Cox, of Somerset, moved that the Convention do now adjourn.—  
Lost.

Mr. BIDDLE, of Philadelphia, rose and said: Mr. President—the question now before the Convention is, whether we shall immediately resolve ourselves into a committee of the whole, or not? The question is not whether we will consider the different propositions made by gentlemen, and particularly those of the gentleman from Butler, but whether we shall go into a committee of the whole now, before the resolutions are printed, or at a future time? I, for one, am not prepared to go into committee, at present. I want to see, in print, the various alterations which have been suggested by that gentleman, as well as others. No reason, Sir, has been assigned why the propositions of the gentleman from Butler, should be put on a different footing from those proceeding from other quarters. For myself, I can sincerely say, that I have approached the amendment of our Constitution with great timidity. It is an instrument which I do cherish with the utmost reverence, and regard with the most profound respect.—In the year 1776, in the midst of the revolutionary war, a Constitution was formed for Pennsylvania. Under the circumstances of its formation, it was not so perfect as if greater deliberation and more reflection had been



bestowed on it. That Constitution, after an experience of fourteen years, was laid aside, and the present one adopted. By whom, Sir, was that Constitution formed? It was formed by a band of pure patriots and illustrious statesmen, who would have done honor to any age or country.—Under that Constitution it has been our happiness to live for forty-seven years. Law and order, virtue and religion have prevailed. Private rights have been respected: individual liberty has never been trampled upon. The public faith has been inviolate. The credit of the commonwealth has never been suspected, and the hand of oppression has scarcely been felt.

This, then, is the form of government which it is now proposed to change. Does it not become us to approach our work reverentially, and to perform our duty with solemnity? Let us compare our own government with that of others in foreign countries. Look abroad on Europe: During the forty-seven years that we have been living in happiness, they have been convulsed and shedding each other's blood. Look at England, torn to her very centre! Look at France: revolution on revolution—distracted and convulsed! Look at South America: see the numerous vicissitudes of fortune she has undergone! Look, look at our Union, and what State, I ask, is there that stands so justly prominent, or is so happy as our own commonwealth? What are the evils to be reformed? Are there any that have been practically felt? If so, they are few, indeed.—But, the passion of the times, and the disposition of the day, is a love of change—a disposition to pull down what is good, merely for the sake of change. It appears to me, that the time has arrived, when this propensity, if it be not checked, will hurry us into an evil we little dream of. To pull down a fabric, tried and found to be good, to venture on the experiment of raising a structure, upon which there are almost as many discordant opinions, as minds, is pregnant with danger.

Sir, the Constitution under which we live, has endured forty-seven years. That, in itself, is a strong argument and recommendation in its favor. The people are familiar with its provisions. They have grown up under it, and their habits, manners, and feelings we accommodated to it. Sir, we have heard it said, that the people have resolved that a change shall be made in the Constitution. I ask, where is the evidence that they have come to any such determination? They have resolved that a Convention should meet and deliberate, and afterwards submit to the people the result of their labors, and leave it to them, to say whether they will have any change, or not.

I cannot put up to Heaven more devout aspirations, than that we shall leave to our children a not less perfect instrument than that which our forefathers have handed down to us—and under which we have lived so happily and prosperously during the last forty-seven years. Sir, I am averse, then, at a moment's notice, without having had an opportunity of looking at the propositions before us, to touch that Constitution, which ought to be held sacred. I trust, that we shall be allowed to look, and see, and think what we are about, before we are called upon to act.

I hope that we shall not now proceed further with the discussion. I move that the motion of the gentleman from Northampton, and the consideration of the resolutions of the gentleman from Butler, be postponed for the present.

**Mr. SILL**, of Erie, said, that he was against the motion to go into the committee of the whole, for the purpose of discussing the amendments to the Constitution, before the subjects had been referred to the several committees that had been appointed, and reported on by them. So far as I have any knowledge on the subject. (continued Mr. S.) it is always the practice, in legislative bodies, to refer all matters to the examination of committees, before they receive the action of the House. This is a safe and judicious practice. It is one of the best securities against improvident or injudicious legislation. It gives the whole House the benefits of the researches and examination of the committee to whom the subject is referred. If this practice is found to be necessary and beneficial, in legislating on matters, even of small importance, how much more necessary and important is it, that it should be observed in the present case, which concerns business of more importance that has ever before been transacted by any assembly within these walls.

I am not for commencing this business with precipitancy and haste.— If changes are made in the Constitution, they should be made with all that care and circumspection, and with all those safeguards, which are usual in legislative proceedings.

What are the reasons alleged against this mode of proceeding? It is said, that the opinion and report of a committee will have much weight with the House; that it will be conclusive in its effects, and cannot be resisted, whether the principles of it are right or wrong. This assertion does injustice to the intelligence and independence of the members of this Convention. Is there a single member of this body who will vote against his own deliberate opinion, and in favor of the report of a committee? I do not believe there is.

So far as I have been able to understand, a majority of this Convention is in favor of some amendments to the Constitution. I am, myself, in favor of some amendments. But I am for proceeding in the deliberations of these subjects, with all that caution and prudence which the importance of the case requires. I hope, therefore, that all the subjects contained in the resolution now before the Convention will be referred to them as separate committees, and be by them examined and reported upon, for the action of the Convention.

**Mr. M'CAHEN**, of Philadelphia, said that he was much gratified that the motion to go into committee of the whole, had given an opportunity to gentlemen to express their sentiments. The discussion had been one of considerable length, and had taken a very wide range. He, however, had no reason to regret it; on the contrary, for by it he had learnt the opinions and views of many gentlemen, of which he must have remained in ignorance. He confessed that he was not a little surprised to hear gentlemen announce that they were unprepared to vote for amendments to the present Constitution. If the proposed amendments had been only lately mooted, then there might be some ground of excuse for saying that they were not prepared. But, when it was notorious that the proposed alterations of the Constitution had agitated the minds of the people of this Commonwealth for near thirty years, it was not to be supposed that gentlemen, who were advanced in years, were totally unacquainted with the subjects of the amendment. He was not, in the least, surprised to hear the high wrought eulogies passed upon the "matchless" Constitution of

the state by the gentleman from the city, (Mr. BIDDLE). He had not expected to hear him utter sentiments exhibiting an acquaintance with the wants of the people. Nor was he, (Mr. M'C.) disappointed. It was not to be presumed that a gentleman, moving in the sphere he did—not having mingled with the great mass of the people—could be familiar with their wants and necessities, and should himself feel any of the inconveniences of the present fundamental laws of the Commonwealth. It, however, had been his (Mr. M'C.) fate, in humble life, to have associated with the people at large, and he had felt and experienced many of the inconveniences and grievances of which the people had complained. And, therefore, he could readily enter into their views, and share with them the anxiety they feel for an amendment of the Constitution—this “matchless Constitution”, as it was called.

The first vote he ever gave involved a serious right to a young man, and that was upon age. On tendering his vote to the inspector, he was asked by him, if he, (Mr. M'C.) had any property which paid a tax? He answered that he knew of none. He was then asked if his father had been dead more than two years? He replied that he had been taught so. He had reason to believe that he had been dead near twenty years. He was denied his right to vote there. Believing that he was acting only in obedience to the law, he tendered his vote to another inspector of more liberal views, and it was received. Well, then, knowing, as he did, that there were defects in the Constitution, it was very natural that he should enter into the feelings of the people as to the inconveniences they feel and labor under at the present moment. Gentlemen who were aware of these facts, were ready to vote for amending the Constitution. He was glad to hear the gentleman from Erie, (Mr. SILL) say that he was ready to go into a discussion of the subject. He (Mr. M'C.) believed that there were many gentlemen on that floor who were in favor of liberal principles.—He should be glad to see the articles of the Constitution more liberally arranged—better understood—more equal in their operation, and more congenial to the understanding and wishes of the whole community. He was opposed to making property the basis of the right of voting.

In conclusion, he would say to the members of the Convention—“let us adapt the laws to the capacity and genius of the people. We shall, then, if we succeed in doing that, acquire for ourselves the credit of having done our duty as faithful servants of the public.”

Mr. AGNEW, of Beaver, said he felt sorry that that gentleman had identified the proposition now before the House, with the question of reform, or no reform. If the character of any gentleman's opinions could be gathered from the vote of his constituents, his own were nineteen twentieths for reform; that being nearly the proportion of the vote of his constituents. Yet he was in favor of the postponement. Sir, (continued Mr. A.) I am not ready to commence the examination of this subject *immediately*. I wish to see and read the various propositions which have been made to us. I wish them printed in some tangible shape, that I may take hold of them and consider them. Other gentlemen may have tenacity of memory to retain so many, and various projects—I have not. Words, sir, are but the fleeting shadows of ideas sent forth upon the wings of intellect, fleeting over the mind for a moment, and then vanishing, perhaps forever. I, sir, am not ready to fall pell mell upon the Constitu-

tion, and with irreverential hands tear it to tatters, without deliberation and without reflection. I hope, therefore, sir, that we shall be permitted time to read the various propositions, and to deliberate. Besides, sir, we have many of the preliminary amendments of this Convention, yet to finish. Our rules are not adopted nor printed; committees are waiting to report upon subjects necessary to set us fairly in motion. I am, therefore, opposed to being *hurried* into committee of the whole, and hope that the motion to postpone will prevail.

Mr. EARLE, of Philadelphia, said that if the constituents of the member from Beaver, (Mr. AGNEW) who inhabited a portion of Pennsylvania bordering on Ohio, a State whose institutions were essentially different from those of Pennsylvania, had made up their minds in favor of a change of our Constitution, eighteen months ago; and had manifested that opinion by giving a vote of 20 to 1 for a Convention, as the gentleman had stated, he presumed that it was because, from intercourse and observation, they were aware of some features in the Ohio Constitution better than those in that of Pennsylvania, and that they wished those features introduced into our government. He was anxious to know what were the changes which the people of Beaver county had in view. He presumed that they had selected representatives, knowing their feelings and views, and he was anxious, by going into the consideration of the resolutions, to give those representatives an opportunity of enlightening this Convention and its committees on the subject. He had observed that the county of Erie, which joined both New York and Ohio, had given a vote of 100 to 1, in favor of the Convention. He considered the people of Erie as good judges of the comparative advantages of our Constitution, with those of the two states mentioned. He was anxious to give the member from Erie, (Mr. SILL) an opportunity to enlighten the members of the centre, and of the east, by stating what were the changes that his constituents had in view. A gentleman of the city (Mr. BIDDLE) had professed his profound veneration for the present Constitution, and those who made it, and his reluctance to changing it. He (Mr. E.) had never been accustomed to revere any form of words, because it was a form of words; no piece of parchment, because it was a piece of parchment; and no book merely because it was a book. The gentleman assumed the Constitution to be good, because certain men had made it. This was putting the cart before the horse. Instead of deducing the goodness of the work, from the excellence of the makers, we ought to ascertain, first, whether the work was good or bad, and from the result of this investigation, determine on the skill, or want of skill, of those who framed it. The gentleman appeared to venerate the work, because it was made some fifty years since: this reminded him of the engineer who venerated and determined to use a steam engine, of the form used fifty years ago in preference to those of the present day.

He (Mr. E.) was rather disposed to go with the gentleman from the city, (Mr. BALDWIN,) in taking advantage of the improvements of modern times; he would profit by experience and discovery.

He could not commend the manner in which the present Constitution was introduced, as the gentleman had done. What were the facts? Was the present Constitution the voluntary work of the people, or the work of tyranny and usurpation? He thought it was the latter. It was never the

people's Constitution. The patriots of '76, in a Convention, having for its President the illustrious Franklin, whose maxim was, that "where annual elections end, there tyranny begins", had made the original Constitution of Pennsylvania. They had provided, in that instrument, for the mode of its amendment, through a council of censors. That Constitution, democratic in its character, had passed, unchanged, the ordeal of one council of censors. The time for electing another council was near at hand, so that the people could, in the regular mode, determine whether they would change the Constitution. A party was in the ascendancy in the Legislature, which was unwilling to trust the people. That party would not wait for the choice of the censors, but, by an act of usurpation, called a Convention, giving but four weeks notice of the election of delegates;—a time scarcely sufficient, at that period, for the transmission of intelligence to all parts of the state, and wholly insufficient to enable people to understand the amendments proposed, who were the candidates, and what their sentiments. The Convention so elected, proceeded to form a Constitution; but it did not, as it should have done, and as was done in other states, submit that Constitution to a vote of the people, for ratification or rejection. It preferred the course of ratifying the Constitution by the formality of a procession, marching from the State House, in Philadelphia, to Centre Square, and thence back again, accompanied by much idle pageantry. The Constitution so made, and so put in operation, had never pleased the people. Attempts were early made for its amendment. They failed, through the arts which tyranny and aristocracy always use—the arts of deception. The people were untruly told, that the friends of reform were agrarians; that they would destroy title deeds, and produce ruin and confusion. They were deceived for a time; but, as is generally the case, they, in the end, judged wisely. They had called this Convention, and it was for us to do their will.

The gentleman had said, that the people were happy under this Constitution. It might be so with him, but it was not so with others. It was because they felt oppression, that they had called the Convention.—The poor man's son, between the age of twenty one and twenty two, had been refused his vote, while the rich man's son had enjoyed the right of suffrage. Hordes of life officers had been commissioned; some of them were made justices, before their standing was such, that they could get no post by the votes of the people. These men had oppressed the poor: they had sent the poor man to prison, under unjust judgments in civil, or frivolous complaints in criminal cases: they had released them on the payment of extravagant charges of costs. The gentleman from Philadelphia had not felt these grievances, because his standing in life made him too formidable to be attacked in this way.

The delegate had spoken of the peace, order, and prosperity of the American states, compared with the condition of foreign and despotic countries. Why was there disturbance and discontent abroad? Because the governments were not in the hands of the people. Why was there more order and content, and stability of laws, in those American states, where all officers were chosen annually, or for short terms, than any where else? Because the people enjoyed practical sovereignty. In those states, the Constitutions had stood the tests of repeated ordeals. He wished to assimilate the Constitution of Pennsylvania to them, not doubt-



ing but the result would be the decrease of party strife, of discontent, and of oppression—and the increase of content, prosperity and happiness.

Mr. STEVENS thought that this skirmish had consumed too much of their time, and that gentlemen had better now let off a little of their surplus steam, and come to some understanding as to the best course to be pursued. He could not believe that gentlemen were serious, when they concluded that the proper way of proceeding was to go into committee of the whole. He did not believe that they advocated that course for any other object, except that it furnished them with an opportunity of making a speech. Had not the gentleman from Erie (Mr. SILL) ably expressed the object to be attained from sending the various subjects to committees? Was it not, that, when they should report, there would be some distinct object for the action of the Convention? And, instead of going rambling over whole subjects of fancy, of theory, of crude notions, of wild schemes, the Convention might come at once up to a proposition, amend it, put it in shape, decide it finally, and then pursue the same course in relation to all other propositions. The gentleman from Northampton was mistaken, when he said that the question which the Convention had to decide, was, whether they were to instruct the committees, or the committees to instruct us? Why, surely, it would not be pretended, even if the Convention went into committee of the whole, that they would require the committees to report in a particular way, for if so, it would be absurd, absolute nonsense, to send the subjects to them. No; they were to be left perfectly free and unshackled. If we were to go into a debate on the subjects now, what, he inquired, was the use of committing them? And, when did gentlemen suppose the committees would report? Why, it must be very long before they could do that, inasmuch as the members composing them were to sit here and listen to the wisdom and knowledge that might be displayed, before they could act, or dare report. The committees could not sit during the time that the Convention was in session, consequently, their deliberations would be slow, and tedious. Now, he apprehended, that there could be nothing more inconsistent with the object of raising standing committees than such a proposition as this, to go into committee of the whole. The respectable gentleman on his right (Mr. BROWN) had referred to the committee on the judiciary, and expressed his apprehensions that there would be something wrong. He was not satisfied with the composition of it. He seemed not to like the idea of lawyers being on the committee. Instead of putting jurists on it, who had spent their lives in learning the laws of the nation, and of every nation, the gentleman would exclude them, and have men whose pursuits had been entirely different, and were, consequently, not so well qualified for the duties they were called upon to perform! Mr. S. concluded by expressing his hope that the Convention would not only refuse to go into committee of the whole, now, to-morrow, or the next day, but until the standing committees should have reported.

The Convention, then, on motion of Mr. STEVENS,  
Adjourned till ten o'clock to-morrow.



THURSDAY, MAY 11, 1837.

The question recurring on the motion of Mr. DUNLOP, made yesterday, to postpone the further consideration, for the present, of the motion made by Mr. PORTER, of Northampton, that the resolution offered by Mr. PURVIANCE, relative to instructing the standing committees on the several articles of the Constitution, be referred to a committee of the whole :

Mr. DUNLOP said that the more he reflected on the subject, the more he was satisfied that his motion, yesterday, to postpone the question was right. When the gentleman from Butler first offered his propositions, he thought they contemplated some definite action by the Convention, but it was only necessary to examine them, to be satisfied that they did not. The instructions which they would give the committees, if we passed them, were vague and indefinite. Take, for instance, the first proposition on the subject of executive patronage, and it would be seen that it only affirmed, what almost every delegate admitted, that the patronage of the executive ought to be reduced, but it did not declare in what way, how much, or in what particulars. Supposing, that we go into committee of the whole, and pass it, what will it avail ? What gentleman of the committee will consider it any instruction to him in relation to any particular mode, or manner, in which it shall be reduced ? Some gentlemen are of opinion that the executive patronage should be reduced by taking from the Governor the power of appointment : others by taking away, or abridging the veto power.—Some were for curtailing it, by requiring the action of the Senate upon all the appointments, and others were only for shortening the term of his office, rendering him ineligible the second term. To a committee containing these conflicting views, what instruction would the passage of this resolution give it ? The passage of the resolution would amount to nothing, and the Convention would only be engaged in the discussion of vague and useless propositions. We have passed a resolution instructing the committees to make no reports, and they can only report the articles with or without amendments. It is therefore useless to discuss these propositions, as every plan of amendment will be discussed when the several articles are reported to the Convention. It will be a waste of time. The resolutions, if passed, will pledge no one. If we now go into the committee of the whole on the naked proposition to reduce the executive patronage, we shall have endless propositions, without system or order, submitted ; useless discussion on impracticable projects,

“ Nonsense precipitate, like running lead,

“ That slips thro’ cracks and zigzags o’ the head.”

Some gentleman had talked about the inconsistency of a delegate changing his mind. For his part, he hoped he should always change his mind when he was convinced that he was in error, and he could not have a very high estimate of any man who was not open to reason and reflection.

Mr. M'DOWELL, of Bucks, said : Mr. President, I have listened for three or four days, as attentively as a great degree of impatience would admit, to the arguments of the gentlemen for and against the proposition now before the House, and I have come to the conclusion to vote in favor of going into committee of the whole. I shall do so, sir, for various reasons,

some of which I am free to confess are purely selfish. I believe it is better to do so, whether it is right or wrong in the end. If we had gone, at once, *into* this committee of the whole, three or four days ago, when the discussion about it first arose, we should, in all reasonable probability, have been *out* of it by this time. Sir, I have taken the pains to make arithmetical calculations, and I have come by the force of figures, to the geometrical conclusion, that there is to be, and *will be*, delivered, in and upon this Convention, four thousand seven hundred and eleven speeches. Now, sir, here is a most appalling prospect ahead! If any gentleman of this Convention wishes to know the data upon which this calculation is made, let him only revert to the past; to the time already spent here; add up the number of speeches that have been delivered, make the same liberal allowance for the future, and he will find my calculation correct. Sir, I think it is entirely immaterial as to what time, and under what circumstances, the great number of those speeches are delivered, and it is useless to waste time in this Convention, in debating the propriety of either.—Why, sir, we have been in Convention here for nearly two weeks, and what have we done? We are not yet organized for business. Sir, the proposition now before the House, is an important one; it is a question of economy—the economy of time; a question, which, I think, is likely to be of paramount interest here, if we are to judge of the future by the past. If I had not learned before I left home what I was sent here for, most certainly I should have gained no information upon the subject, from any thing that has transpired in this body. Until yesterday, sir, when a few threats were made in the shape of resolutions, I have scarcely seen or heard tell of the Constitution in this Convention. With great deference to the talent and taste which has been displayed upon this subject, I must say I am tired of it. Let us go to work; it is little difference how, turn us loose into committee of the whole—let those who have come to devour the Constitution, have their prey; let the speeches be inflicted upon us; let all the vials of wrath be poured out: we must meet it, and the sooner the better for the business of the Convention. There is a large amount of talent here that must be exhausted upon wild notions of reform. It is in vain to attempt to suppress or control it. Sir, these things must be. After the thundering and lightning is past, after the storm has spent its fury, a calm will ensue—the tempest will have purified the atmosphere, and the sober minded, the wise and thinking portion of the Convention, can commence *their* work. They can restore the injured Constitution—give to it new life, new features, and, in a few days, the great work of reform will be accomplished.

Mr. DORAN, of Philadelphia, rose and said, that he was disposed to add one to the 4711 speeches, which the gentleman from Bucks had just stated would be delivered by gentlemen here in the discharge of their duties. He was willing to take the risk of whatever blame might attach to him on that account. But, while he did so, he was not to be deterred by any threats on that floor as to its being an unnecessary consumption of time.—He came from the large, respectable and populous county of Philadelphia—a county containing one hundred and forty thousand inhabitants, and in which there was a very large majority in favor of reform. He came here to deliver their sentiments on the important matters which the Convention was assembled to take into consideration and act upon. What

had he heard asserted yesterday? Why, that the Constitution was a "matchless" instrument!

Mr. BIDDLE, of Philadelphia, explained, that the assertion was not made by him. The Constitution was not a *matchless* work. No human work was matchless. Every human work was imperfect. He had merely said that every member of the Convention should approach the work of amendment to the Constitution with the greatest caution, and ought to make no alteration in it, unless the reasons for so doing were very convincing indeed.

Mr. DORAN resumed. The remarks which he had made had no reference to the gentleman from the city, but to another gentleman, who said that he, and his constituents, thought the Constitution a matchless instrument, requiring no reform, and that the Convention ought not to recommend any. He said, also, that he should vote for continuing the Constitution as it now was. Nay, so far had some gentlemen been carried away by their reverence for that instrument, that they attribute all the present distress in the world to the attempt that was now to be made to reform the Constitution of Pennsylvania. One gentleman had said, look at the sad condition of France, of England, of South America, &c., when contrasted with that of the State of Pennsylvania, which was happy and prosperous under her admirable Constitution: and we were warned against indulging in this spirit of reform, which had produced so much trouble elsewhere. He (Mr. D.) was surprised to learn that the Constitution of Pennsylvania was regarded as of so much importance—that the liberties of the people of the whole world depend upon the preservation of it in its present shape—that we were now about to settle the destinies of nations. Such was the exaggerated language of those who opposed reform. He was a reformer, and was in favor of modifying that instrument. Although he was but an humble citizen, he was for keeping pace with the intelligence of the age, and not at all disposed to cling to that which was defective, merely because it was ancient. He had heard it said, yesterday, that the Constitution was made by the most enlightened men of any age—that, inasmuch as it was a Constitution under which we had lived prosperously and happily, that, therefore, we ought not to alter it. Was that the object of this Convention being called? Were gentlemen to decide the question whether the Constitution shall be remodelled, or not? No; the people have, already, firmly decided that that shall be done, and they had, in consequence, sent their delegates here. Forty years ago the cry of reform was raised; it was echoed by SIMON SNYDER, and by every true friend of the people, and, after years of difficulty, it at length triumphed. No less than 80,000 voices had recently been raised in favor of making some amendments to the Constitution.

He would refer to the act of Assembly, which was passed, requiring that a Convention be called for the purpose of submitting amendments to the Constitution: "Whereas, in pursuance of an act passed the 14th day of April, one thousand eight hundred and thirty-five, the freemen of this Commonwealth have, by a decided majority, determined that a Convention shall be holden to propose and submit for their ratification or rejection a new Constitution", &c. Now, it would be seen, that the people have decided, by an immense majority, that a Convention should be held to form a new Constitution, to revise the Constitution. And yet, gentle-

men got up here, and without fear of contradiction, asserted that it was a "matchless" instrument! Well, then, all that they had to do was, to put into their pockets the three dollars a day allowed them, and after all the discussions were over, go home and present to the people the old Constitution in its *present* shape! He begged to differ from gentlemen in regard to what he conceived to be their duty. He believed, even if there were a majority of the Convention disposed to adjourn now, it would be the duty of the minority to remain behind, and revise the Constitution, and send it out to the people, who, he doubted not, would sustain them.

What had the gentleman from Adams (Mr. STEVENS) said, when speaking on the subject of the judiciary? Why, he was delighted at the idea that nearly all the members of the judiciary committee were lawyers.—Nay, he went so far as to say that no men could discharge the duties appertaining to that committee, but lawyers, as they had more experience in such matters than men of other pursuits! Ah! had it come to that, that *they* were the *only* men? He (Mr. D.) belonged to the legal profession, as well as the gentleman from Adams, but he, nevertheless, entertained the opinion that there was as much experience, judgment and knowledge in other professions as in that. It were to be wished, there were more farmers, and fewer lawyers, on the judiciary committee, and, perhaps then, we might have a report that would satisfy the sterling yeomanry of Pennsylvania, the bulk of whom are industriously engaged in the honorable occupation of tilling the earth. He would ask whether GEORGE WASHINGTON, he who was emphatically said to be the father of his country, was a lawyer? No, he was not. He was a plain and honest farmer, like many he (Mr. D.) now saw before him—distinguished for his integrity and sound patriotism, and, if he had been appointed on a judiciary committee, would have displayed as much knowledge as most of the gifted men of Philadelphia. Who, too, was BENJAMIN FRANKLIN, he who drafted the first Constitution for free Pennsylvania, (and an admirable one it was for that day,) as good a one as could have been drawn by the most gifted man at the bar? Why, he was not a lawyer by profession, but a printer.

With regard to the appointment of the committees, he confessed that he had voted in favor of the adoption of that course, because he then thought it better than taking up the Constitution and acting upon it. His opinion, however, had now become changed, and he had no hesitation in declaring the fact, on account of the complexion of the committees. He did not mean to say that the President had acted unfairly, or improperly, in selecting the members composing them. He found, on looking over the committees, that seven counties had been entirely passed over; not a single member from them had been chosen—as though they were not thought worthy or capable of assisting in revising the Constitution. The complexion of the committees could not but be dissatisfactory to the party to which he (Mr. D.) belonged. The county of Philadelphia, (in favor of reform) with one hundred and forty thousand individuals, had only five delegates on the committees, whilst the city of Philadelphia, (opposed to reform) with but eight thousand voters, had six!

Under the existing state of things, he felt disposed to vote for going into a committee of the whole, for he wished to hear the opinions of gentlemen fully expressed in regard to the amendments proposed to be made to the Constitution. One gentleman had asked, what good would result from

going into committee of the whole, when the standing committees were to report afterwards? He (Mr. D.) thought much benefit might be derived from it, inasmuch as the committees would be enabled to report in accordance with the sentiments of the committee of the whole, instead of giving their own particular views. He wished the work of reform speedily done without burdening the people with much expense—the Convention should not procrastinate, but hasten their labors—and such being his wishes, he would vote in the affirmative on the question for going into a committee of the whole.

Mr. Cox, of Somerset, said that he should not have troubled the Convention with any remarks on this question, were it not that he had heard opinions advanced by some of the delegates from Philadelphia, and especially the gentleman who had just taken his seat, which rendered it necessary that he should take some notice of them. He had understood that that gentleman (Mr. DORAN) had spent some hours in calculating the number of delegates, of the different counties, which composed the committees. He was not astonished at the information which had been communicated, nor at the course of the gentleman, because there were some gentlemen who were always finding fault—who were never satisfied with what was done. He (Mr. C.) had not looked at the list of committees, and was, therefore, unable to say whether or not the gentleman was on any committee. If he was not, perhaps that was the cause of his dissatisfaction. But if he was, probably the gentleman was dissatisfied with his place—that he was not in a situation to display his learning and talents, which certainly did entitle him to occupy the first place on a committee! He might be dissatisfied, too, for another reason. It was well known here that he was a radical, in the most extensive sense of that term; not what was called a wholesome reformer, and of that class, there were many in that Convention. There were some who represented the yeomanry—the “bone and sinew of the country”—whilst there were others, who represented a number of English radicals, who lived about the *suburbs* of Philadelphia; and, perhaps, the gentleman might be one of that party. But, be that as it might, the gentleman would, he trusted, have an opportunity of expressing his opinions, and views, and feelings, and desires, at length, before the body. If the gentleman was not on one of the standing committees, he should move for the appointment of a select committee, and he (Mr. C.) had no doubt that the gentleman would be appointed the chairman. He hoped, that, in that event, the gentleman, when he should report, would lay his opinions and views, *in extenso*, before the Convention. Should they, however, turn out to be of the character which he presumed they were, he hesitated not to declare now, there was not a majority here who would sanction them in any shape or form. Why had the gentleman been so impatient, and manifested such great anxiety, to lay violent hands upon the Constitution? Was it, because he feared he might be convinced by argument to forego his purpose? Or, was it, because he had determined upon certain amendments, and was resolved to adhere to them right or wrong? He had always thought it right and prudent, that, when any thing important was to be under consideration, reflection and consideration were necessary; that it was not best to rush upon it without listening to reason. Perhaps, the gentleman's opinions could not be changed. But, all wise men were prudent, and changed their opinions when



convinced that they were in error. It was said, that "wise men often change their opinions—but fools never". Then, why should the gentleman persist in urging an immediate attack on the Constitution? Why should he be so anxious to tear it to pieces? It was strange, that after having lived, and prospered under this Constitution for forty odd years, there should be such a desire evinced on the part of some gentlemen to pull it down. It was a few years only, since this reform mania was gotten up, and he believed it had its origin in the county of Philadelphia. At the election of the last Governor, a successful attempt was made to identify one of the candidates with the subject of reform, notwithstanding, the question had been previously submitted to the people, and they decided that a Convention should not be called to amend the Constitution. At the last election for Governor, it was said, that there was a large majority in favor of reform. Now, this he denied. When the question was taken on the question of "Convention, or no Convention", forty thousand of the reflecting portion of the community did not vote at all, and even then, there were only thirteen thousand majority out of one hundred and sixty thousand votes polled. Now, was it not strange, that forty thousand of the people, who had suffered so much, whose rights and privileges had been trampled upon, should not have voted, and that there should have been but thirteen thousand in favor of reform? Now, this state of facts only proved that there was not that great anxiety for reform as might be supposed, from the course of the gentleman from Philadelphia. On the contrary, it showed that a large portion of the reflecting community did not wish to interfere with the question at all, and did not desire any alteration in the Constitution. He believed that if the people had entertained an idea that the whole Constitution was to be torn to pieces—that, instead of wholesome amendments being made to it, such as giving the election of county officers to the people, the wild doctrines of agrarianism were to be engrafted upon it—they would have voted down the Convention by fifty thousand majority. The gentleman, he believed, supported the late Governor WOLF, who designated the Constitution, a "matchless instrument". It was true, that it is a good Constitution, and it was true, also, that some amendments might be made to it which would be salutary and proper. But, with regard to the alleged defects in it: Had it been shown that the rights or privileges of the people had been trampled upon! Had an instance been cited of an individual having been deprived of his personal liberty under this Constitution, except through the legitimate action of the laws? Where, too, was there an instance shown of the right of property being endangered, owing to any defects in the Constitution? No proof had been adduced, and no such allegation could be made, having any foundation in truth. He would contend that under no Constitution, that had ever existed, had life, personal liberty, and property, been more fully guaranteed than under the Constitution of Pennsylvania.

He had heard it stated that there was one gentleman from the county of Philadelphia, who was not only in favor of an election of the president judges, for three years, but in favor of reducing their salaries to seventy-five cents per day! on the ground that a common laborer received but fifty cents. Now, if it were true, that any gentleman here went for so absurd a thing as this, he (Mr. C.) would say that he ought not to have more than six cents per day for advocating such doctrines. Another gentleman went



still further, and contended that these judges ought to be elected for a shorter term—for six months! Now, he (Mr. C.) did not know what that would be called—Democracy, or what? for it was difficult to learn what was meant and comprised in the term Democracy, because men did not agree in regard to the definition of the word—some contending that it means equal rights, extended to all the citizens of the commonwealth—others, that it consists in electing the judges for three months or three years, and giving them seventy-five cents a day for their services! Well, then, he would say that it was a mere question of right—of Democracy—whether the people shall be permitted to elect their own officers, or not, or whether it would result in good, or evil, to the community. It was, undoubtedly, an important question. He thought that none but those who were radicals, and who were prepared for all the horrors that had occurred in France during the French revolution, would go for making the judiciary—the judges of the country—dependent upon the caprice, the whim of the populace, and especially of a portion of the people of the county of Philadelphia! It was true that there were a great many respectable people there, though there were many that were not so.

He had heard some strange stories told in relation to their elections.—One was—that a hundred voters were taken from one district to another—that they slept all night in a bark yard—had a cravat washed—swore to their place of residence—voted—then returned to the district in which they resided, and voted again. He had heard of another singular story, too, but he did not know whether it was true, and that was, in relation to swearing the *hats* of the judges of election, instead of the judges. A party would retire into a room—place a hat in such a position that some one's head could be seen just peeping from under it, so that this was taken for the appearance of the judge. And, he had heard that in some districts in the county of Philadelphia, the judges in one district would wait for the votes of another to be declared off, in order to ascertain how many votes it was necessary to put in to carry the election. There was also a story of ballot boxes having been found and lost just as they were wanted, or not, exactly in time to turn the scale in favor of a particular party.

Mr. M'CAHEN, of Philadelphia, asked whether it was in order for the gentleman to take the wide range he was doing?

Mr. BROWN, of Philadelphia, hoped that if the gentleman was in order, he should have an opportunity of replying.

The PRESIDENT would take the opportunity of stating that it was not for him to judge of the relevancy of the arguments. If they were not personally offensive to any body in the Convention, then they did not properly violate any rule of order.

Mr. Cox resumed. He had mentioned these facts to show the danger there was in adopting the course proposed of electing judges, whose tenure of office depended on the popular will. A man of lax principles would hesitate not, and have no compunction in violating the laws of God or man, to comply with the popular will. He would, he confessed, have no hesitation, in going to a certain extent to abolish life offices; but he would go about the work deliberately and calmly. In proposing amendments to this Constitution, under which we had so long lived and prospered, we should not take it up as a mere plaything, but as a matter

of serious import and consideration. We ought to handle it with reverence and care, and see, at every step of our progress, whether there was not danger of falling into greater dangers than the amendments which were proposed were intended to cure. It was not acting the part of wisdom nor of prudence, that we should take up the Constitution of Pennsylvania, and propose amendments to it, as we could, at the next session of the Legislature, take it up and repeal the amendments, which, on due reflection, were discovered not to be good. No; we should act with discrimination and caution. Whatsoever might be done, he trusted would be done well. Mr. Cox having given way for the purpose,

On motion of Mr. PORTER, of Northampton, the further consideration of the subject was postponed, in order to enable the committees to report.

On Motion of Mr. PORTER, of Northampton, leave was given to the committees to report.

Mr. DILLINGER, of Lehigh, from the committee to whom was referred the resolutions in relation to the printing of the journal and debates of this Convention, reported the following, viz :

*Resolved*, That the Printers of the journal in the English language, be directed to strike twelve hundred and fifty copies of the said journal, and the minutes of the committee of the whole, on good paper, in medium octavo form.

*Resolved*, That the Printer of the journal in the German language, be directed to strike twelve hundred and fifty copies of said journal and minutes, in the same form.

*Resolved*, That the Printer of the debates of this Convention, in the English language, be directed to strike twelve hundred and fifty copies of said debates, on good paper, in royal octavo form, the yeas and nays in solid paragraphs.

*Resolved*, That the Printer of the said debates, in the German language, be directed to strike twelve hundred and fifty copies, in the form and manner aforesaid.

*Resolved*, That the Secretaries of this Convention cause the said journals and debates to be stitched, bound, and delivered into the office of the Secretary of the Commonwealth, to be by him distributed, in such manner as shall hereafter be directed by this Convention.

*Resolved*, That the Secretaries be directed to pay, as part of the contingent expenses of this Convention, the costs of two thousand seven hundred copies of the Daily Chronicle and Convention journal, in the English language, and one thousand copies in the German language, to be furnished during the sitting of this body, and to be divided among the members for distribution among their constituents.

Mr. DICKEY, of Beaver, from the committee to whom was referred the eighth article of the Constitution, reported the same without amendment.

The article was read as follows, and then laid on the table :

#### ARTICLE VIII.—OF THE OATH OF OFFICE.

Members of the General Assembly, and all officers, executive and judicial, shall be bound by oath or affirmation, to support the Constitution of this Commonwealth, and to perform the duties of their respective offices with fidelity.

On motion of Mr. DILLINGER, of Lehigh. the resolutions reported by the committee on the subject of printing, which had been read, were again taken up for a second reading.

Mr. STERIGERE, of Montgomery, moved to amend the first resolution, by striking therefrom, wherever they occur, the words, "twelve hundred and fifty", and inserting, in lieu thereof, the words "three thousand"; which was decided in the negative.

Mr. CLARKE, of Indiana, having called for a division of the question,

and the question being taken separately on each clause, it was decided in the affirmative.

The second resolution having been taken up for consideration,

Mr. STERIGERE, of Montgomery, moved to amend the same, by striking therefrom, all after the word "Resolved", and inserting in lieu thereof, the following, viz :

"That the delegates be allowed six daily papers, in addition to the number now allowed to be taken; the expenses to be paid as a part of the contingent expenses of this Convention".

Which was decided in the negative.

Mr. MANN, of Montgomery, moved to strike out "twenty-seven hundred", and insert "thirteen hundred and thirty"; which was decided in the negative.

Mr. CRAWFORD, of Westmoreland, moved to add after the words "*Daily Chronicle*", the words "or *Daily Reporter*", as the members may direct, provided the expense of each copy does not exceed seventy-five cents per month; which was decided in the negative.

Mr. BEDFORD moved to postpone the further consideration of the resolution for the present; which was negatived.

The vote being taken on the resolution, it was decided in the affirmative—yeas 69, nays 55, as follows :

YEAS.—Messrs. Agnew, Ayres, Baldwin, Barnitz, Bayne, Bell, Biddle, Brown, of Lancaster, Brown, of Northampton, Brown, of Philadelphia, Butler, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Cline, Coates, Cochran, Cope, Cox, Crain, Crum, Cunningham, Darlington, Dickey, Dillinger, Doran, Dunlop, Earle, Farrelly, Gearhart, Grenell, Harria, Henderson, of Allegheny, Hopkinson, Houpt, Jenks, Konigmacher, Long, Maclay, Martin, M'Dowell, Meredith, Merrill, Montgomery, Nevin, Overfield, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Reigart, Royer, Russell, Saege, Scott, Serrill, Scheetz, Shellito, Sill, Stevens, Thomas, Todd, Weidman, Woodward, Young, Sergeant, *President*.—69.

NAYS.—Messrs. Banks, Barclay, Barndollar, Bedford, Bigelow, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Craig, Crawford, Cummin, Curll, Darrah, Denny, Dickerson, Donagan, Fleming, Forward, Foulkrod, Fry, Fuller, Gamble, Gilmore, Hastings, Hayhurst, Henderson, of Dauphin, Hiester, High, Hyde, Ingersoll, Keim, Kennedy, Kerr, Krebs, Lyons, Magee, Mann, M'Call, M'Sherry, Merkel, Miller, Myers, Purviance, Read, Ritter, Sellers, Seltzer, Smith, Smyth, Snively, Sterigere, Stickel, Swetland, Taggart, White.—55.

Mr. DILLINGER, of Lehigh, moved to amend the report of the committee, by adding thereto the following, viz :

*Resolved*, That the committees appointed to superintend the printing for this Convention, be directed to superintend the printing of the aforesaid *Daily Chronicle*.

Which was decided in the affirmative.

Mr. BROWN, of Philadelphia, from the committee on the purchase of books for the Convention, reported the following resolution, which was considered, and rejected.

*Resolved*, That ten copies of "Elliott's Debates of the State Conventions", be purchased for the use of this Convention, to be placed in the Hall Library for reference.

Mr. KONIGMACHER, of Lancaster, offered the following resolution, which was read twice, considered, and adopted.

*Resolved*, That a committee of three be appointed to ascertain from the members of this Convention, the proportion of English and German *Daily Chronicle* and *Journal of the Convention*, best suited for the use of their respective constituents, in order that they may be properly distributed.

*Ordered*, That Messrs. KONIGMACHER, BEDFORD and KREBS, be the committee for the purpose expressed in the resolution.

On motion of Mr. EARLE, of Philadelphia,

*Ordered*, That the delegates of the Convention have leave to offer resolutions for the purpose of having them printed.

Mr. HIESTER, of Lancaster, then offered the following, which were read, as follows, and then laid on the table.

*Resolved*, That the committee on the first article be instructed to enquire into the expediency of amending the Constitution as follows, viz :

1. That the Legislature shall meet on the first Tuesday in January, annually, unless sooner convened by the Governor.

2. That each House may punish by imprisonment, during their session, or by any less punishment, any person not a member, who shall be guilty of disrespect to the House by any disorderly behaviour in their presence.

3. That each House shall keep and preserve inviolate a journal of its proceedings.

4. That no law increasing the compensation of members, shall go into effect, until an election of members to the succeeding Legislature shall have intervened.

5. That the Governor's veto power shall not extend beyond the suspension of any bill which he disapproves, and which, if repassed by a majority of all the members elected in the next succeeding Legislature, shall become a law without his signature.

6. That the heads of department, (excepting the Secretary of the Commonwealth,) Attorney General, and flour and other inspectors, shall be chosen by both branches of the Legislature in joint ballot, for the term of four years, and that the Governor shall fill vacancies which may occur in said offices during the recess, by temporary appointments, to continue in force to the end of the next session of the Legislature.

*Resolved*, That the committee on the second article be instructed to enquire into the expediency of amending the same, as follows, viz :

1. That the Governor shall hold his office for the term of four years, and be ineligible for the next succeeding four years, and that he shall be at least thirty-five years of age before his election.

2. That the Governor shall appoint no officer except the Secretary of the Commonwealth, who shall remain in office for four years, if it shall be the pleasure of the Governor to continue him so long, and the Judges of the Supreme and inferior courts.

3. That the Governor shall assign his reasons to the Legislature at the commencement of each session, for the fines and forfeitures he may have remitted, and for the reprieves and pardons granted during the preceding year.

*Resolved*, That the committee on the third article be instructed to enquire into the expediency of amending said article, as follows, viz :

1. That every freeman of the age of twenty-one years, who shall be enrolled in the militia, and shall have mustered or paid a fine, shall enjoy the rights of an elector.

2. That one year's residence only, in the State, shall be in all cases required to entitle a freeman, (possessing the other requisite qualifications,) to enjoy the right of suffrage.

*Resolved*, That the committee on the fifth article be instructed to enquire into the expediency of amending the same, as follows, viz :

1. That the tenure of office of the Judges of the Supreme Court, hereafter appointed, be limited to twelve years.

2. That the tenure of office of the Judges of the court of Common Pleas be limited to ten years, but that the judges now in commission shall not be affected by the aforesaid change.

3. That the Justices of the Peace, the number of whom shall be limited and apportioned by law, shall be elected by the qualified electors of their respective districts, and hold their offices for the term of five years, and those now in commission shall continue for a term of five years and no longer, unless elected in manner aforesaid.

*Resolved*, That the committee on the sixth article be instructed to enquire into the expediency of amending said article, as follows, viz :

1. That one Sheriff and one Coroner, only, shall be chosen in each county, who shall hold

their offices for three years, and the Sheriff shall be ineligible for the next succeeding three years.

2. That the Prothonotaries, Registers of wills, Recorders of deeds, and the Clerks of the different courts, shall be elected by the qualified electors of the respective counties, and hold their offices for the term of three years.

*Resolved*, That the committee on the seventh article be instructed to enquire into the expediency of amending the same as follows, viz :

1. That no act of incorporation shall be hereafter passed without a reserved power of revocation by the Legislature, nor for a longer period than twenty years, unless it be incorporations for public improvements, or for religious or charitable purposes.

*Resolved*, That the committee on the eighth article be instructed to enquire into the expediency of amending the same, as follows, viz :

1. That a further test of office shall be a declaration by the person elected or appointed, that he has not been engaged in a duel in any manner whatsoever, either as principal or second, since the adoption of this amendment to the Constitution.

*Resolved*, That the committee on the ninth article be instructed to inquire into the expediency of amending the same as follows, viz :

1. That the Legislature shall not authorise lotteries for any purpose whatsoever.

2. That the Legislature shall provide, by law, for the election or appointment of all other officers not specified in the Constitution as amended.

Mr. DARLINGTON, of Chester, offered the following resolution, which was read, and laid on the table.

*Resolved*, That the committee on the ninth article of the Constitution be instructed to enquire whether any disqualification for holding office under this Commonwealth, should attach to any person on account of his having been concerned in any duel, either as principal or second, or of having been convicted of any other crime or misdemeanor.

Mr. RITER, of Philadelphia, offered the following resolution, which was read, and laid on the table :

*Resolved*, That the Secretary of the Commonwealth be requested to inform this Convention what number of pardons have been granted by the Governors of this State, distinguishing the administration of each, under the present Constitution.

Mr. CAREY, of Bucks, offered the following resolution, which was read, and laid on the table :

*Resolved*, That the subject of conscientious scruples to bear arms, be referred to the committee appointed on the ninth article of the Constitution.

Mr. SELTZER, of Lebanon, offered the following resolutions, which were read, and laid on the table :

*Resolved*, That the committee on the second article of the Constitution of this Commonwealth be instructed to consider the propriety of reducing the official term of the Governor to a term of four years, in any term of eight, and the county officers to be elected by the people, in their respective counties in this Commonwealth, for a term of years.

*Resolved*, That the committee on the fifth article of the Constitution of this Commonwealth be instructed to consider the propriety and to report to this Convention the appointing power of the Governor, as relates to the appointment of Judges of the several courts of this Commonwealth, and to have them appointed for a term of years with the consent of the Senate.

*Resolved*, That the committee on the first article of the Constitution of this Commonwealth, be instructed to consider the propriety of reducing the official term of the State Senators to a term of two years. The General Assembly shall meet on the first Tuesday in January, in every year, unless sooner convened by the Governor.

Mr. THOMAS, of Chester, offered the following resolution, which was read, and laid on the table :

*Resolved*, That the committee upon the sixth article of the Constitution be instructed to enquire into the expediency of so amending the second section of said article, as that no person shall be compelled to perform any military service or duty, or pay any equivalent therefor, excepting in times of actual war or imminent danger.

Mr. CLINE, of Bedford, offered the following resolution, which was read, and laid on the table.

*Resolved*, That it be referred to the appropriate committee so to amend the Constitution of this Commonwealth, as to give the appointment of Prothonotaries and Clerks of courts, to the courts respectively of which they shall be officers, and that Registers of wills, and Recorders of deeds, be appointed by the courts of Common Pleas of the respective counties for which they shall be commissioned.

Mr. CHANDLER, of Chester, offered the following resolution, which was read, and laid on the table.

*Resolved*, That the committee on the fifth article of the Constitution be instructed to enquire into the expediency of abolishing capital punishment.

Mr. KONIGMACHER, of Lancaster, offered the following resolution, which was read, and laid on the table.

*Resolved*, That the Secretary of the Commonwealth be requested to furnish this Convention with a statement exhibiting the number of persons executed since the adoption of the present Constitution.

Mr. EARLE, of Philadelphia, offered the following resolution, which was read, and laid on the table :

*Resolved*, That the following amendments to the Constitution be made :

1. The Legislature shall not, at any time, prescribe other or different qualifications for the exercise of the right of suffrage in the choice by the people of county, city, borough, or district officers, than those provided by this Constitution.

2. The Legislature shall not change the term of office, nor the time or manner of election of any officer or officers, of any municipal corporation, except with the ratification of the qualified voters of such corporation, expressed by their suffrages, at a stated or special election.

3. The Legislature shall not prescribe any qualification, other than age, citizenship and residence, as a requisite for holding any state, county or municipal office.

4. The salary or compensation of any state, county or municipal corporation officer, shall not be raised to a sum exceeding                      dollars, except with the approbation of the people, by whom such salary or compensation is to be paid, as signified by their votes at a stated or special election.

5. No person shall, at the same time, hold two or more offices, the joint emoluments of which shall exceed                      dollars per annum ; and such holding shall constitute a misdemeanor in office, upon conviction of which, the person so offending shall be dismissed from both offices.

6. The legislature shall provide by law the rate of fees to be received by all persons holding places of temporary or durable public trust, and not having regular salaries, including Auditors, Commissioners, &c. appointed by courts ; and also, for the effectual prevention of the taking of unlawful fees, and a committee shall be appointed at each session of the Legislature to report whether unlawful fees are taken, and whether any more effectual provisions to prevent such taking are practicable.

7. In appointments to any office or place, of permanent or temporary public trust, to which any fees or emoluments are attached, no Governor, Judge, or other officer shall nominate, vote for, or officially sanction the appointment of any person related within the fourth degree, by blood, or by marriage, to such Governor, Judge, or other officer.

8. All private legislation, or legislation referring to particular individuals, or authorizing private associations or corporations, shall be avoided, except in cases of peculiar emergency, and it shall be the duty of the Legislature to establish, as far as practicable, general laws, providing for all the wants of the community, and equal in their operation upon all citizens.

9. All charters hereafter granted shall be repealable by the concurrent acts of two



successive Legislatures, with such compensation, if any, as such Legislatures shall deem to be equitable.

10. No alteration or amendment of this Constitution shall ever be made, except with the ratification of the people at large, as expressed by a vote to be taken for the purpose, and all persons attempting to change the Constitution, without such ratification, shall be deemed guilty of felony, and punished by imprisonment at hard labor, for a term not less than seven years.

Mr. MILLER, of Fayette, offered the following resolution, which was read, and laid on the table :

*Resolved*, That a special committee be appointed to consist of one member from each Congressional district, to report to this Convention such amendments as to them may seem best to accomplish the great object they are delegated to perform ; and that the several delegates from each Congressional district furnish a member for said committee.

Mr. DILLINGER, of Lehigh, offered the following resolution, which was read, and laid on the table :

*Resolved*, That the committee on the fifth article of the Constitution be instructed to enquire into the expediency of so altering the said article, as to allow the proceedings in courts of justice, in such counties where a majority of the inhabitants thereof are Germans, and require the same, to be conducted in the same language.

Mr. FLEMING, of Lycoming, offered the following resolution, which was read, and laid on the table :

*Resolved*, That the committee on the first article of the Constitution be instructed to enquire into the expediency of providing for a ratio of representation, compounded of population, in the House of Representatives of this Commonwealth :—

1st. By the election of one Representative, by the citizens of each city and county.

2d. By a division of the residue of the number of Representatives, according to the population of the several cities and counties.

Mr. BELL, of Chester, offered the following resolution, which was read, and laid on the table :

*Resolved*, That the Secretaries cause to be printed, for the use of the members of the Convention, two hundred copies of a tabular abstract of the provisions of the Constitution of the United States, and the several States, on the plan of the table published in the third volume of the Encyclopædia Americana.

Mr. PORTER, of Northampton, offered the following resolution, which was read, and laid on the table :

*Resolved*, That the committee on the sixth article of the Constitution be instructed to enquire into the expediency of altering the second section of that article, so as to give the Legislature a discretionary power to dispense, if necessary, with military meetings for training, except in times of danger or of war ; providing, however, for the officering and enrolling of all persons liable to be called into the military service of the country in times of exigency, and giving due encouragement to volunteers.

Mr. M'CAHEN, of Philadelphia, offered the following resolution, which was read, and laid on the table :

*Resolved*, That article ninth of the Constitution ought to be amended in the first section, by adding to the same, " that the freemen of this State are competent, and should be entitled to elect all officers established by this Constitution, and by the laws of this Commonwealth ".

Mr. HASTINGS, of Jefferson, offered the following resolution, which was read, and laid on the table :

*Resolved*, That the committee on the first article of the Constitution be instructed to enquire into the expediency of amending that article, so that each county, now in the State, shall have at least one member in the House of Representatives.

Mr. COPE, of Philadelphia, offered the following resolution :

*Resolved*, That a committee of accounts, to consist of five members, be appointed.

The resolution having been read a first and second time, considered and adopted, it was

*Ordered*, That Messrs. COPE, SWETLAND, NEVIN, HASTINGS, and HAYHURST, be the committee for the purpose expressed in the resolution.

Mr. EARLE, of Philadelphia, moved that the orders of the day be postponed for the present, and that the Convention proceed to the second reading and consideration of the resolution, offered by him, relative to the hour of meeting of the Convention.

Mr. STERIGERE, of Montgomery, moved to amend the motion by striking therefrom all after the word "proceed", and inserting in lieu thereof the following: "for the purpose of completing the consideration of the rules, for the government of the proceedings of this Convention"; when,

On motion of Mr. BELL, of Chester,  
The Convention adjourned.

### FRIDAY, MAY 12, 1837.

Mr. HIESTER, of Lancaster, asked, and obtained leave, to offer the following resolution, which was read twice, and agreed to:

*Resolved*, That all propositions of amendments to the Constitution, submitted by the different members of the Convention, which are not imperative, but are submitted in the nature of suggestion, or inquiries merely, be referred to the committees thereon, specified respectively, or where the committees are not specified, to such of them as the subject matter of the several propositions indicate that they are most appropriately referable to.

On motion of Mr. CHAMBERS, of Franklin, the orders of the day were postponed, for the purpose of proceeding to the consideration of the rules.

The 29th rule being under consideration,

Mr. CHAMBERS explained, that in consequence of a change which had been made in this rule, by the adoption of a resolution by way of amendment, it became necessary to insert this amendment by way of modification, in order that it may be published with the rules. He wished also to add a committee of accounts, which had been appointed since the adoption of the rules. He then moved to amend the rule, by striking out all after the number "twenty-nine", and inserting, in lieu thereof, the following:

"The following standing committees on the Constitution shall be appointed, and the Constitution be referred as follows:

1. The first article to a committee of nine.
2. The second article to a committee of nine.
3. The third article to a committee of nine.
4. The fourth article to a committee of nine.
5. The fifth article to a committee of nine.
6. The sixth article to a committee of nine.
7. The seventh article to a committee of nine.
8. The eighth article to a committee of nine.
9. The ninth article to a committee of nine.

And the said committees shall report the said articles with, or without amendments, and with no other report.

10. A committee of accounts to consist of five members".

On motion of Mr. CHAMBERS, 200 copies of the rules, as now agreed to, were ordered to be printed for the use of the Convention.

On motion of Mr. EARLE, of Philadelphia, the orders were suspended, for the purpose of taking up the following resolution, offered by him on Wednesday :

*Resolved*, That a committee of nine be appointed to consider and report whether, and if any, what provision ought to be inserted in the Constitution, prescribing the manner and form in which future amendments to that instrument may be made, at the desire and by the act of the people.

The resolution was then read a second time and agreed to.

The following gentlemen were appointed of the committee :

MESSRS. EARLE, BARNDOLLAR, GEARHART, HOUP, HIGH, MONTGOMERY, MAGEE, BIGELOW, and HYDE.

On motion of Mr. DENNY, the orders were suspended for the purpose of enabling the standing committees to report.

Mr. CLARKE, of Indiana, to whom was referred the fourth article of the Constitution, made the following report, which was ordered to be laid on the table and printed :

That they have had the subject under consideration, and have agreed to report the first and third sections of the said fourth article of the Constitution without any alteration, and the second section of said article with one amendment, viz :

To strike therefrom the words "two thirds", and insert in lieu thereof, "a majority", so that the section may read as follows, viz :

*Section 2.* All impeachments shall be tried by the Senate ; when sitting for that purpose, the Senators shall be upon oath or affirmation. No person shall be convicted without a majority of the members present.

Mr. CLARKE, of Indiana, from the minority of the committee to whom was referred the fourth article of the Constitution, made the following report, which was ordered to be laid on the table, and printed :

The minority of the committee to whom the fourth article of the Constitution was referred, respectfully report :

That they have had the subject under consideration, and report the said article without amendment.

JAMES CLARKE,  
JAMES C. BIDDLE.  
ANDREW BAYNE,  
SAMUEL CLEAVINGER

Mr. DENNY, from the committee to whom was referred the first article of the Constitution, made the following report, which was ordered to be laid on the table, and printed :

That they have had the same under consideration, and beg leave to report as follows, viz :

That it is inexpedient to make any alteration in the first, third, fourth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth and twenty-first sections of said article.

That the tenth section be so amended as to read as follows, viz :

"The General Assembly shall meet on the first Tuesday of January, every year, unless sooner convened by the Governor".

Mr. REIGART, of Lancaster, offered the following resolution, which was ordered to be laid on the table, and printed :

Whereas, under Divine Providence, the unexampled growth of this Commonwealth, in population, wealth and resources, has, in a great degree, arisen from the industry of her citizens, the republicanism of her institutions, the impartiality of her laws, and the uprightness, firmness and integrity of an independent judiciary : Therefore, be it

*Resolved*, That the standing committee of this Convention, to which is referred the fifth article of the Constitution, be instructed to report the same, without amendment.

Mr. EARLE, of Philadelphia, moved to reconsider the vote of yesterday, by which a resolution, to take ten copies of Elliott's Debates on the adoption of the Federal Constitution, was rejected, for the purpose of moving for a less number, but, after some conversation, the motion was rejected.

The question recurring on the motion of Mr. DUNLOP, to postpone the further consideration, for the present, of the motion made by Mr. PORTER, of Northampton, that the resolution offered by Mr. PURVIANCE, relative to instructing the standing committees on the several articles of the Constitution, be referred to a committee of the whole ;

Mr. Cox resumed his remarks, and said, that when he rose yesterday, it had not been his intention to address the Convention at such great length as he did. But, inasmuch as a few of the standing committees had reported, and as it was a mere question of expediency whether the Convention should go into committee of the whole or not, it was, perhaps, as well that he should have thus occupied the time of the body, in discussing matters of that sort. For, by so doing, each member would be enabled to ascertain the others' views ; and perhaps, too, many suggestions would be thrown out which might be serviceable and useful to the committees who had not yet reported. He hoped, therefore, that the Convention would excuse him if he should occupy their time for an hour longer.

When he had the floor yesterday, his intention had been merely to advert to what he considered an unjust insinuation that was made here in relation to the standing committees of the Convention, and to show, by precedent, that the President who presides over the deliberations of it, had acted entirely impartially in appointing them, and had pursued a course more liberal than the Speakers of the House of Representatives of this State had been doing for many years past. And, before he (Mr. Cox) should conclude, he would advert to that matter specially. He would now proceed to make some observations on subjects to which he had yesterday adverted, in reference to the opinions of the people of this Commonwealth as to the alterations or amendments of their Constitution. He would also allude particularly to the result of the election upon that question in the county of Philadelphia.—Until it was intimated to him, late last evening, that the vote there was very nearly balanced, he had been induced to believe, from the course pursued by some of the delegates from that county, that a large majority were in favor of reform. He had supposed, from the course of, and the anxiety manifested by, two or three of the delegates upon the subject, that such was the fact. But, upon investigation, he found that there were (if we were to judge from what was done by the citizens of the county when the subject was before them,) many enlightened, reflecting and judicious men who, when the question was propounded—whether there should be a “ Convention called for the purpose of proposing amendments to the Constitution ” ? voted against the adoption of that course. There was a majority of the citizens of the county of Philadelphia—at least of those that voted—who

were of opinion that it was inexpedient to call a Convention at that time. And, he found also, that the estimate which he had first made, as to the number who did *not* vote, was too small. There were, at the election, when this question was tested, 200,413 votes polled for the three candidates for Governor: and, there were given for and against a Convention 159,736 votes, thereby showing that there were 40,677 persons who voted for the different candidates for the office of Governor, who did not vote on the question of calling a Convention. Now, that was an important fact for the consideration of this Convention, for it showed most conclusively that there was none of that deep anxiety prevailing on the subject, which had been alleged to exist, but which existed only in the imaginations of gentlemen. Upwards of 40,000 citizens voted for the different candidates for the office of Governor, who did not cast their votes at all on the question of calling a Convention, because, believing (as it is to be fairly inferred) it to be inexpedient to interfere in any manner whatsoever, with the Constitution. Philadelphia county, on that occasion, voted as follows: against a Convention 5,798; for a Convention 5,570; which shows that there was a majority against calling a Convention of 228 votes. Philadelphia county polled the following votes for Governor: For RITNER, 5,591; WOLF, 6,033. Yes, 6,033 votes were given for Gov. WOLF, who declared the Constitution of this State to be a “matchless instrument”. For the reform candidate—the candidate who was particularly identified with the question of reform, (Mr. MUHLBERG) there were 2,754 votes polled. But 2,754 for the candidate who was identified with the question of reform! and 6,033 for the candidate who declared the Constitution to be a “matchless instrument”, and thereby made known to the people of the Commonwealth that he believed it was not susceptible of amendment. The aggregate vote for the three candidates for Governor, amounted to 14,378, and that on the calling a Convention to 11,368, which latter number being deducted from the 14,378 showed that in the county of Philadelphia, from which the most active and zealous reformers come, there were not less than 3,010 citizens who did not vote for, or against, a Convention.

Now, if the anxiety for reform exists in that county, which seemed to be indicated by two or three of its delegates, there must have been some new light given to the citizens since they voted on the question, as it was manifest, from the best and most accurate calculations that had been made, that, as he had already said, 3,010 citizens did not vote at all. And, of those who did vote, there were 228 majority against the call of a Convention. Well, it was fair to infer, that if the 3,010 individuals who did not vote on the question, but only on the election of Governor, had done so, they would have voted against having a Convention. There would, then, have been upwards of 3,000 majority opposed to it, of the citizens of the county of Philadelphia. The number of votes given in the city and county of Philadelphia were, 7,883 in favor of a Convention, and against calling one 10,442, making an aggregate of 18,325. For the different candidates for Governor, the aggregate number of votes given in the city and county of Philadelphia, were—for RITNER 10,633, WOLF 7,834, MUHLBERG 4,105. The reform candidate in the city and county of Philadelphia was, therefore, far behind those who were not particularly desirous of effecting that object. The aggregate number of votes that

was given for the candidates, for the office of Governor, in the city and county, amounted to 22,572; and, on the question of whether there should be a Convention called, 18,125, which showed that there were in the city and county, an aggregate of 4,447, who did not vote.

Now, this being the state of the case, how happened it, he enquired, that some of the delegates from the county of Philadelphia, manifested so much anxiety to press the Convention to go into committee of the whole on the various important subjects which must come under the consideration of the Convention, instead of having them referred to the various committees, in order that they might consult together, and discuss and deliberate upon the propositions laid before them? Were the gentlemen unwilling that this course should be taken, and that we should have the benefit of their reflections and the result of them, which might greatly assist, and serve as a guide to us in coming to a decision, in respect to the alterations or amendments which it might be necessary to make in our Constitution? He thought they certainly ought to deliberate with care, because there was not, at the time the question was decided, that degree of anxiety exhibited which might be supposed, from what had been said here by some of the members from the county. Many of the delegation not having said any thing in reference to it, he, of course, was ignorant of the opinions entertained by them. There was, however, another fact which induced him to believe that, at the present time, or, at least, on the 10th of November last, there was not that solicitude felt by the people, that the Constitution should be amended, as the speeches of the two members from the county would seem to indicate. He recollected that when the vote was taken for delegates to this Convention, some of the gentlemen who were now sitting here, from the county, received but about 100 majority. He found that a portion of them, who were most zealous on the subject of reform, received (at least one of the most zealous, Mr. MARLE,) the smallest number of votes.

He had been told, and he believed it to be true, that one of the gentlemen who most desired reform, received only 7,480 votes, in the county of Philadelphia, whilst the others obtained a much larger number. He meant those who ran on the same ticket, and some of whom were understood to be rather conservative than otherwise. The anti-reform ticket received about 6,800 in that county: so that, at least, a proportion of the delegates from the county of Philadelphia, and among them the most zealous in favor of reform were near being defeated. Now, he thought this was some evidence that, even the partizans of those gentlemen had deserted them on that occasion, perhaps, on account of their reform principles. Experience told us, that when matters were carried to a certain length, a large majority of the people would cling to their party and vote for their candidates, although many, doubtless, would have preferred the candidate on the other side of the question.

Well, notwithstanding strict party discipline, (and they all knew from reports, or by experience, how it exists in the county of Philadelphia,) that one of the most zealous reformers, who was on the ticket, received the smallest number of votes. And, he could not account for this fact, knowing nothing of the character of the gentleman, in any other way, than by supposing that his opinions on the subject were very well known



prior to the election. Many individuals, in consequence, chose to disregard party feelings, and vote for the candidates on the other side.

Now he (Mr. Cox) thought that this was a fair inference, and not to be controverted, because we are bound to believe that every man, who has the honor of a seat here, is an honorable and honest man. We, therefore, cannot account for the fact, in any other way, than in attributing it to the reform opinions of the gentleman, and their being known to the people. The majority which had generally been given in the county of Philadelphia, in favor of what was there called the democratic party, amounted to more than 6 or 800—sometimes upwards of 1,000, and, he believed, had exceeded 2,000. As he had already stated, at the last election, WOLF received 6,033, MUHLENBERG 2,754—making an aggregate of 8,787 votes. Governor RITNER had 5,591 votes, there was, therefore, on that occasion, a majority of upwards of 3,000 votes. Yes, less than three years ago, there was a majority of upwards of 3,000, and both these men were said, by those in favor of them, to be democratic candidates. At any rate, they were called democrats. What, then, had caused this falling off? What had produced so great a change in so short a period? Why had that *democratic* party dwindled down so much?—from a majority of 3,000 to that of 6 or 800? It might, it was true, have been produced in consequence of a difference of opinion on certain subjects. Perhaps, the people had become satisfied of the ruinous policy of the late President of the United States, and had, for that reason, left the party to which they had been attached. He did not think that the worthy gentlemen from the county of Philadelphia, would be willing to admit that that was the reason. Would they admit, he asked, that the registry act prevented a number of illegal votes from being taken? He hardly could suppose that they would admit that, because to do so, would admit the credibility of the statements he made yesterday, as to the frauds practiced. Then, how was it to be accounted for? Why, if it was neither the registry act, nor what he considered the ruinous policy of President JACKSON, why, then, it must have been a change of sentiment in relation to the subject of reform. Let the gentleman (Mr. DORAN) take which ever horn of the dilemma he pleases, and tell the Convention the cause of that change. This must have been the cause. Men were not willing, notwithstanding their strict party discipline, to vote for those whom they thought would make innovations to that Constitution which Governor WOLF termed “matchless”, and thereby destroy it. He (Mr. Cox) would leave the matter, to which he had just alluded, to the gentlemen to settle, and he hoped that they would be able to do so, with satisfaction to themselves and to this Convention.

With regard to the question of reform, he believed that some reform was necessary—that a few alterations ought to be made, and, perhaps, that gentleman and himself might agree on some other amendments, which it might be requisite to make. But, ever since the organization of the Convention, murmurings had been heard, and insinuations occasionally thrown out, as to the appointment of committees. And, one gentleman had said, only the day before yesterday, that he could not resist the conclusion that one of the committees was packed; and, as an evidence of the fact, he said, that all but one delegate on it were lawyers, and he was an honest farmer. Another gentleman stated yesterday, in stronger

terms, that he was driven to the conclusion that the committees were not properly appointed, though he added, that he did not wish it to be inferred that he imputed any unfair or improper motives to the President of the Convention. But, when a gentleman expressed himself in the manner that he did—when he declares his belief on any subject, we were to understand words in their common acceptation. And, so understanding the words, he (Mr. C.) regretted to say, that the gentleman did mean to insinuate that the committees were not fairly and impartially appointed.

He (Mr. Cox,) very deeply regretted, in common with every gentleman of the Convention, that so *talented a gentleman* as he (Mr. DORAN) was, and so zealous, too, as he was on the subject of reform, should have been neglected by not being placed on one of the standing committees. If, as it had been contended, the report of a standing committee was so forcible as calculated to carry with it a weight that could not be resisted, then, indeed, it was a matter of regret to the Convention that he had not been selected, as they would have had the aid of his *powerful mind* in framing the reports. And now, it was said, that we had no other way of receiving light than by proposing amendments to the reports of the several committees. As the gentleman possessed *gigantic powers*, he (Mr. C.) hoped that when the report should be made, the gentleman would, notwithstanding the obstacles which intervened, endeavor to surmount them, and enlighten the members of this body, and convince them that their committees had erred in their conclusions.

Mr. C. would be extremely happy to be convinced that what he regarded the radical doctrines of the gentleman were correct, and that he was in error; for he would, then, most assuredly, and with pleasure, act with him, as far as he could, in any proposition that might be brought forward, notwithstanding the reports of the committees on the subject. He had no doubt that the gentleman would still have an opportunity of bringing his views before the Convention. He trusted that the gentleman would not despair, that he would be prepared at the proper season to urge them on this body, and that he would succeed in convincing it that the opinions which he entertained were correct, and if so, they would be sustained. The gentleman, he repeated, ought not to regret his not having been placed on one of the standing committees. He trusted that, although the gentleman had been overlooked with respect to them, he might yet be appointed, and placed at the head of one of the select committees, if they were not all chosen, as he hoped they were not. The gentleman would then have an opportunity of distinguishing himself by bringing in a general report in relation to all the propositions that had been already submitted.

With regard to the appointment of the committees, about which so much had been said, he would ask gentlemen to compare the appointments of committees, made by the late Speaker of the House of Representatives of Pennsylvania. Let the gentlemen take up the committees as they were appointed at the last session, and compare them with those appointed by the President of this Convention, and then judge. The gentleman, he conceived, to have fallen into some mistakes in stating facts. It was, however, common for great men to overlook small matters, and occasionally to make a *small* mistake. It is said that the great DANIEL WEBSTER frequently forgets small matters, and

we are to consider that the gentleman from the county (Mr. D.) may have fallen into error too, being *a great man*. An anecdote is told of DANIEL WEBSTER's forgetfulness, or carelessness. A gentleman called on him and asked him for the loan of \$1500. Mr. WEBSTER said, in answer to the request, "upon my word, sir, I have not the money, but I will try to borrow it for you. Call in half an hour".—The gentleman accordingly took his departure, and Mr. WEBSTER went out and borrowed the sum. He had returned home, and had scarcely resumed his seat, when another gentleman came, and made a like request, to which he replied, "I have just borrowed \$1500 for a friend of mine, however you shall have it, as probably I can borrow \$1500 more".—This, he neglected to do, and, in a few minutes, he dropped the gentleman who first asked the accommodation, and inquired of Mr. WEBSTER if he obtained the money. He answered, "I had entirely forgotten you—I borrowed the money and loaned it, but will endeavor to get the sum you desire". "Why, Mr. WEBSTER, I saw you put some money in that book case the other day", answered his student. Mr. WEBSTER then remarked "did you"? and opened it, and there, to his astonishment, he found 3 or 4,000 dollars, and accordingly accommodated his friend.

Now, the gentleman (Mr. DORAN) complained of the manner in which the committees had been appointed, and said that there was not a single delegate from the county of Washington on any of them. That, however, was not the fact, for there were two from that county on the committees. But, he took it for granted, that that *honorable and intelligent* gentleman did not *intend* to misrepresent the fact, but had fallen into a *small* mistake, as all *great men* were liable to do.

I find (continued Mr. C.) Mr. BANKS, Mr. STERIGERE, and Mr. KENNEDY, three of the friends of the party to which the gentleman from Philadelphia belongs, on the first committee. On the second committee, I find Mr. INGERSOLL, Mr. BELL, and Mr. OVERFIELD, three out of nine. On the third committee there are four gentlemen, Mr. ROGERS, Mr. EARLE, Mr. FOULKROD, and Mr. LYONS, who act with the gentleman from Philadelphia. On the fourth, his friends constitute the majority, being five out of nine, Mr. J. CLARKE, Mr. SMYTH, Mr. CLEAVINGER, Mr. FARRELLY, and Mr. FRY. On the fifth there are four, Mr. WOODWARD, Mr. HAMLIN, Mr. FLEMING, and Mr. BARCLAY. On the sixth there are five, Mr. READ, Mr. TAGGART, Mr. FULLER, Mr. CUMMIN, Mr. DONNELL. On the seventh there are four, Mr. RITER, Mr. KEIM, Mr. MARTIN, and Mr. SELLERS. On the eighth there are two, Mr. MANN, and Mr. GAMBLE. And on the ninth, there are three, Mr. J. M. PORTER, Mr. CRAIN, and Mr. SCHEETZ. There are eighty-one members on the nine committees, and in two of those committees, the gentleman's friends constitute a majority. The gentleman cannot, surely, expect his opponents to be more liberal than his friends; let us look to the course pursued during the last session of the Legislature, for we have a right to look to precedents, to see if more liberality was exercised by the Speakers of the House, here and elsewhere, and if not, the gentleman has no right to complain. On the contrary, should it be found that they were not more liberal, the complaint of the gentleman in the present case, would be a more severe condemnation of their own course, than of that of the President of the Convention. On turning to the journals of the Legislature, when Mr. DEWART was Speaker,

I find that there is no evidence of greater liberality. It is well known that when the country was divided into the two great parties of federal and democratic, there was a patent process for making democrats. We all know that JAMES BUCHANAN belonged to the federal party, and that he said, on one occasion, that if he thought he had a drop of democratic blood in his veins he would let it out. Yet that gentleman had become a democrat, and, I presume, has been made so by this patent process, for only by such a process could he be converted. So the Speaker of the late House was a democrat, although he also had formerly belonged to the federal party. He has now become a democrat, "dyed in the wool", and the gentleman will not be disposed to complain of the course which he pursued. How did Mr. DEWART appoint the committees? On the committees of Ways and Means, he placed Messrs. JOHNSTON, HOPKINS, PICKING, FRIES, and FLANAGAN, five political friends of the gentleman from Philadelphia, to two of the other party. On the Judiciary, also, five out of seven, Messrs. GILMORE, ALRICKS, GARRETSON, YEARICK, and SEBRING. On Pensions and Gratuities five out of seven, Messrs. HASSON, J. JACKSON, RINEHART, ERDMAN, and CARNAHAN. On the Claims, four out of seven, Messrs. ESPY, RAMBO, FERGUSON, and DARSIE. On Agriculture, four to three, Messrs. W. REYNOLDS, BOYER, GORGAS, and HIRST. On Education, five to two, Messrs. E. O. JACKSON, ENGLISH, LOVE, BEALE, and FREDERICK. On Domestic Manufactures, six to one, Messrs. BROOKS, LEWELLEN, FLANAGAN, SALLADE, W. REYNOLDS, W. C. REYNOLDS. On Accounts, five to two, Messrs. JAMES, COPLAN, PARK, A. DIMOCK, and MILLER. On Vice and Immorality, 7 to 0, Messrs. HAMMER, WORK, SHEETZ, F. BEATY, BURSON, DOWNING, and LEECH. On the militia, six to one, Messrs. M'CLELLAND, WOODBURN, SEBRING; O. S. DIMMICK, HARMON, THOMPSON. On Election Districts, six to one, Messrs. FERGUSON, STURGEON, SHEARER, WORK, YOST, M'CURDY. On Banks, five to two, Messrs. TAYLER, (Lycoming,) STEVENSON, HINKSON, COOLEY, M'CLELLAND. On Estates and Escheats, six to one, Messrs. GARRETSON, C. SNIDER, ALRICKS, FLING, CARNAHAN, CRAWFORD. On Bridges and Roads, six to one, Messrs. HOPKINS, BRAWLEY, M. SNYDER, HUGHES, LONGAKER, SHORTZ. On Corporations, five to two, Messrs. HILL, RHEINER, J. BEATY, CRAWFORD, M. REED. On Local Appropriations, five to two, Messrs. S. F. REED, W. C. REYNOLDS, J. JACKSON, ERDMAN, M'CLELLAND. On Lands, six to one, Messrs. SALLADE, RINEHART, FEGELY, STURGEON, YOST, LEWELLEN. On Compare Bills, two to one, Messrs. ENGLISH, CURTIS.

The precedent, therefore, had been set, and the doctrine established by the great *democratic family* of Pennsylvania, at the last session of the Legislature. They elected their Speaker, a kind and amiable man, and he appointed the committees of this complexion, all made up of his own party. Here we have the voice of the misnamed democratic party, and the voucher of the rules and principles which it has established, at a time when it was fully represented in the Legislature, where it had 72 Representatives, while the Anti-Masons and the Whigs had only 28. Therefore this must be received as the voice of the *Democratic party*, and if the President of the Convention had strictly observed the same rule, the gentleman from Philadelphia county could not condemn him, without casting a condemnation on his own party which established the precedent.

It is true, as regards a portion of the *Democratic* party, we cannot tell from their acts and opinions to-day, what may be their acts and opinions to-morrow. I will mention what occurred in Pittsburg, as proof of this. The party desired to place in nomination Mr. SHALER. He had been a Whig, had called the hero of seven wars, "the old Roman", any thing but an honest man, one who would sacrifice to his own prejudices and passions the best interests of the country. He was one of those who had predicted, and it is now our evil fortune to realize the prophecy, that the measures of this *Old Roman* would produce such disorders in the currency that in a short time there would not be a specie paying bank in the country. He had, in short, propounded of the President of the United States, that all his acts were bad, that he had produced no good measure. This gentleman afterwards thought it best to change sides, probably for the sake of the spoils, according to the New York system, and had joined his new party about three months previous to the nomination in his county. He was nominated for Congress. He had many friends, but there were many who thought that, having been dyed only three months, he was not yet to be received as one in full faith, and that it was possible he might desert. Those that thought he could be trusted, introduced a resolution in the county Convention that no man should be placed on the *Democratic ticket, who had not been a Democrat for two months*. He had been three months a Democrat, and therefore came within the line of safe precedents. I think he was then a candidate. The gentleman from Pittsburg nods an assent. He was a candidate, and was left in the minority. The majority could not vote for a *Democrat* three months old, notwithstanding the *statute of limitations*.

I have also turned to the journals of 1834-5, to find how the committees were appointed by Mr. THOMPSON—a man of excellent reputation, possessing a kind and amiable disposition, and whose authority will be received as good by both branches of the *Democratic family*. Not only was he Speaker of the House in 1834-5, but when there was a Convention of the party, he was elected President. One day, it is true, he was the favorite of one branch, and the next day of the other. He did, on one day exhort the Convention, in a beautiful strain and in glowing terms, and advise the members to break up their deliberations and go home; and on the next morning he agreed to the nomination of that Convention. I do not complain of this, or attribute it to him as a fault. Every man has a right to change his mind. Pardon the expression. Turning to the committees which, in the candor of his heart, this gentleman appointed, I find he pursued precisely the same course taken by Mr. DEWART.

If, then, there can be found three gentlemen in this Convention, who are dissatisfied with the course of the President in the appointment of the committees, I think I need go no further to convince them that he has acted in conformity to precedents, nay, that he has been much more liberal than he should have been, but has acted in a manner consistent with his high character. I deem it unnecessary to say more.

Mr. DORAN, of Philadelphia, rose in reply. The President and the Convention could not but have been greatly edified by the elaborate display of Billingsgate language, which had been poured forth by the gentleman from Somerset; and there was surely not a member who had not been satisfied by the erratic manner and foul language—



The **PRESIDENT** reminded the gentleman that it was not in order to make use of language of this character.

**Mr. DORAN** appealed to the Chair, whether the personal assault which had been made upon him did not justify the language he had used?

The **PRESIDENT**—Does the gentleman appeal from the decision of the Chair?

**Mr. DORAN**—I do not.

The **PRESIDENT**—It is necessary that some rule of order be established. In the opinion of the Chair, gentlemen ought not to use such language in debate.

**Mr. Cox**: If the chaste language of the gentleman can give relief to his feelings, let him go on. I am not so thin-skinned as some gentlemen seem to be.

**Mr. DORAN**: Is it in order to call me thin-skinned?

The **PRESIDENT**: The Chair can have no personal feeling on the subject. It will endeavor to perform the duty prescribed to it by preserving order and decorum. It was not in order for the gentleman on the left (**Mr. Cox**) to make the remark he did.

**Mr. DORAN** resumed. The gentleman has spoken much on the subject of my principles and residence. I will not speak of his. I will not enquire into them. It is enough for himself to perform that task. But if I may be permitted to judge from his manner, his principles must have emanated from the glades of some far distant country, celebrated only for its sterility and stolidity. If I am from Philadelphia, I delight in my birth right. I take more pride to myself, that I am identified with that seat of liberality and intelligence, than if I had derived my origin in some paltry village, remarkable only for ignorance and starvation. The gentleman has spoken of the ballot boxes, of frauds committed in the county of Philadelphia, and of the importation of voters to operate on the result of the elections. Who was it, let me ask the gentleman, that committed these frauds? Who violated the right of suffrage? Was it the party to which I belong? No, sir, it was not in the first Congressional district, to which I belong, that these frauds were perpetrated, but in the third Congressional district; and they were committed, sir, not by my political friends, but by those of the gentleman from Somerset, by gentlemen with whom he is heart in hand. But the gentleman goes still further. He talks of the votes given in 1835 on the subject of reforming the Constitution, in the county of Philadelphia. Had the gentleman confined himself to his own constituents, and directed his ingenuity to the defence of them when assailed, he would find sufficient employment. How is it in regard to Somerset? according to the language of one of our most distinguished politicians—How as to Somerset, with her 1600 or 1700 voters, who sends the member here to make his long-winded speeches? How with little Somerset? In 1835, the vote in that county stood thus, 786 for reforming the Constitution, while the vote against reform was only 785. Yes, sir, with the gentleman living on the spot, and throwing all his influence into the scale, only 785 votes could be raised against reform. If the gentleman then, will attend to his own constituents, he will have quite enough on his hands. He has store of anecdote at command, and may employ it to advantage. Like Don Quixote, he does not fight with substantial objects, but spends his strength in encounters with shadows. His conflicts are all



Allow me, in conclusion, to say, that I regard as the idle wind, the remarks which have been thrown out by the gentleman from Somerset. I am not to be driven from the course which my own sense of duty points out to me, by any sneers or sarcasms. I came here as a Democrat, as a reformer, and, if the gentleman from Somerset will have it so, as a radical, to perform, to the extent of my ability, the duty for which I was sent, and I will perform it; and when the gentleman endeavors to drive me from my path by scurrilous attacks, the only reply he will receive from me, shall be in the words addressed by Sir William Draper to Junius—“O serpent, viper, you bite against a file”.

Mr. BROWN, of Philadelphia. He would not detain the Convention long. In regard to himself, and most of the gentlemen who represented the county of Philadelphia, they had so demeaned themselves, since they came to this Convention, as not to wound or insult the feelings of any gentleman. If aught had fallen from him which could be misconstrued, he wished it to be expunged from the journals, and he would take it back. He was unconscious of the act, if he had at any time committed it. We are here, (said Mr. B.) in all honesty of purpose to present what we believe to be the will of our constituents, with all the ability we may, and in the manner which appears to us to be the best calculated to effect the objects we desire. Nor have we, at any time, attempted to control or stifle the efforts, or to prevent any gentleman from being heard, on any proposition, in the expression of the dictates of his own judgment, or the instructions of his constituents. We have pursued no such course? Have we not met to be heard, and calmly to hear all that may be suggested by gentlemen from all parts of the State? Yet, I appeal to every member of the Convention, if, from the first moment of our meeting here, the members from the county of Philadelphia have not been assailed from every quarter, attacked by the gentleman from Adams on one side, and the gentleman from Franklin on the other; sneers and sarcasms have been levelled against us all around. I will not characterize this in the language of my colleague, because it is out of order, and, on that account, I would not wish it to go out as mine. I could always bear the character of a gentleman: I came into this Convention with it, and, though I may not be able to get all my constituents to acquire, I will carry that character back, when I return to them again. By no language of mine will I contribute to degrade or sink the high character of this Convention. From the very outset we have been assailed. Propositions were brought forward by my colleague, Mr. INGERSOLL, which were admitted to be of importance, and have been adopted. Did not the gentleman from Adams, by his sneers, and the gentleman from Franklin, in language I will not repeat, because it will not be placed on your journal, connected with my name, endeavor to break them down? Thus we were received, and so we have been treated ever since we entered this hall. Perhaps, we may have come here unheralded by the trumpet of fame, humble and untalented representatives, yet we have surely a right to be heard? I am content that gentlemen should come here and indulge in all the self complacency which their own high notions of their great wisdom and learning may entitle them to, both out of this Convention and in it,) and they shall receive all the deference due to the wisdom they claim,) and should act in accordance, so that we, who assume no

such talents or wisdom, may also have the right conceded to us to be heard by the Convention. I know, for I have witnessed long, although but little, for some years, engaged in politics, that the gentlemen of the opposite party assume to themselves all the decency, all the respectability, all the wisdom, and all the integrity, which are to be found either in this Convention, or in the State; while the party to which I belong, is charged as embracing only the low and the ignorant, the meanest and most degraded of all God's creation, and the assaults made against it are painted with such epithets as would only be suited to such characters. All this has long been before the people. I had hoped that gentlemen had exhausted the source of this vituperation, and that their efforts had been productive of all the effect which they were intended to produce. I certainly did not expect to hear all the language, which has been so long traversing this land, and the whole of the civilized world, for the purpose of degrading the American character, repeated in this Convention. I did not expect, that all this torrent of abuse would be poured into this Convention, and I hope that the gentlemen who have brought it here, have no amendments to offer, providing for the appointment of such only to office as possess all the high qualifications which, they say, are confined to their own party. If they have such an amendment in reserve, I hope they will bring it forward. But when I heard such as the gentlemen from Franklin and Adams, whose talents I can duly appreciate, using the political cant of the day, I confess that it was what I had not expected, and I then felt that we were in danger of falling from the elevated character of delegates to a Convention, and of converting this chamber into an arena for mere political gladiatorship. Since that, however, other members have joined in the attack with the gentlemen from Franklin and Adams. But I now tell gentlemen, and I wish it to be well understood, that so far as I am concerned, I have come here, not only prepared to defend my constituents, but also prepared to defend myself; and if any gentleman shall go beyond what is due from one gentleman to another, in reference to me, I will hold him responsible, and will, on all occasions, defend myself, as well as my constituents. It is with deep regret that I use such language. Deeply do I regret, that in a body like this, it should have become necessary to use it. But I would ask, if it be not called for by the course which has been pursued by some gentlemen towards my colleagues, and the people of the county of Philadelphia.

We have been told, by the gentleman from Bucks, I mean the arithmetical and geometrical delegate from that county, of the number of speeches which are to be delivered in this Convention. Another gentleman talked of the crudities, and creations of the brain, which would be poured forth, in language which I will not quote, because I deem it not fit to be used in this respectable body. We have been charged, out of this Convention, with principles that would scatter the elements of society abroad, and make wrecks of individual property. What have we, who represent the county, or what has the county itself done, to draw down these charges? We have shown no such designs. No! and gentlemen not being able to draw any such from us, have been obliged to suppose they are yet to come? The unwritten words of our hearts are to be condemned. What cause of offence have we, or our constituents, given to the gentleman from Franklin, or the gentleman from Adams, or any other gentleman, to provoke or

justify the attacks which have come thick upon us? A rancorous feeling of hostility against us has risen up in the Convention, and the cause of it has come to us in secret whisperings. I would especially warn gentlemen against these secret machinations, which are, even at this moment, at work against the county of Philadelphia. We have been told that a jealousy of the influence of that county in the Convention is the cause of the ill feeling which prevails. It is whispered that the county has too much weight. We are told she has too much weight here, and that something must be done to counteract or destroy her influence. Our opponents say this may be done by a series of attacks until our vote is broken down, and our influence here scattered to the winds, and the Convention will then be controlled by those opposed to reform, and they may do as they will with the Convention and the Constitution. 'This is the great secret—the county is too large. Eleven votes, all pledged to reform, are too many.

We have been told by several gentlemen that the Constitution wants no reform. 'Those who think so may conduct themselves according to that opinion. We, and those whom we represent, think differently. 'The people of the county of Philadelphia sent their opinions abroad, in advance of their delegates. 'They declared themselves to be in favor of sound and salutary reform. 'They had not, indeed, indicated the precise degree and mode of the reform they wanted. 'They laid down general principles, and left it to their delegates to carry out their views. 'They were not in the predicament of the gentleman from Bucks, who had declared himself to be ignorant of the object of the Convention.

Mr. M'DOWELL explained. 'The gentleman had mistaken him. What he had said was that, had he come into this Convention ignorant of its object, he could never have supposed from what he had heard here, that its object was to reform the Constitution.

Mr. BROWN resumed. He had misunderstood the gentleman's remark. His object was to give that gentleman a reason for the course of the delegates from Philadelphia county, as members of this Convention. We believe in the right of the people to instruct their representatives; and, in our course here, we do but obey the voice of the people. We go for reform, for "*radical* reform", if the gentleman pleases.

He would say a few words to the delegate from Somerset. He begged pardon! He supposed he must say the *gentleman* from Somerset. Those whom he had charged with fraudulent conduct at the elections belonged to the great Whig party of the State, that part of it which had been so happily joined in holy wedlock with Anti-Masonry. The conduct of the judges, on the occasion alluded to, had been universally condemned, and was considered as growing out of the excitement and warmth of party. He, (Mr. B.) though here as a party man, was not less the representative of the whole people of the county, and would not have any portion of them slandered, or charged with crimes not their own. 'The people of that county were in favor of a just and liberal exercise of the right of suffrage. From their local position, and the interest which they took in public affairs, they were sometimes, in the heat of a political struggle, brought into personal collision, but not so frequently, nor so violently, as in the neighboring district—the city of brotherly love. The gentleman had spoken of "*English radicals*" as influencing the people of the county of

Philadelphia. He (Mr. B.) knew no persons there of that description. He did know many of the sons of Ireland there. He believed the blood which flowed in the veins of his colleague (Mr. DORAN) was such—he knew that which flowed in his own was such. And, (said Mr. B.) I will tell that gentleman, or any other, if he means to cast any odium upon the Irish character, I cast back the imputation with indignation. If, (said Mr. B.) there is a people on earth, to whom belong, more than another, the purest and noblest—the bravest, and the best attributes of humanity, that people was the Irish. Look at her sons—in her own history, or the history of the world—on her own soil, or in the countries to which they have been driven or have voluntarily gone—and to what country or clime have they not wandered. Look at them any where, and every where, and you will find their names connected with every thing great and noble—in the field of battle they are the bravest—in the halls of council the most eloquent—in the humble walks of life the most industrious. Look to them in Ireland—poor old Ireland—persecuted Ireland! and what are they? What is true hospitality? What is warm hearted friendship? What is love of liberty? What are all the virtues that constitute a man and a patriot? They are all answered by one word, and that word is Irishmen! Their names are written on the brightest pages of the history of nearly every nation under the sun—to whatever country they have gone, there you will find them fighting the battles, or cheering on with their song, or their eloquence, the friends of liberty? Here—here in our own loved country have they always been foremost to fight for her, and to work for her. What Irishman ever proved a traitor to the country of his choice? In the war of our revolution, or that of a more recent date, what Irishman ever deserted her standard, or kept himself or his services back from the contest when the country demanded them? None! sir, none! Wherever you find them, here or elsewhere, you will find them building up by their labor, or defending by their bravery, the country of their adoption, with the same honest zeal, the same generous and noble impulses, as they would for their own oppressed, but still fondly loved Emerald Isle. He trusted, therefore, that there was nothing in the national or personal character of his constituents which could provoke or justify the reproachful language that had been used towards them. He appealed to the Convention to say, whether he had brought his constituents, or those of any other delegate, before the Convention. Did he, or did any of his colleagues, go into Somerset to asperse the character of that county? Had he said that the people of that county had turned resurrectionists, and robbed the graves of the dead to hold them up to the public gaze, as the murdered corpse of Morgan? Had he said that, annually at elections, a funeral sermon had been delivered by the member from Somerset, over these remains, on the election ground, to the enlightened voters of Somerset? He had not brought them, nor any one of the hundred stories that were floating about, in relation to the people of Somerset, or its delegates, into the Convention. He had not deemed them fit subjects for such a place. The gentleman has told us of the committees of the last House of Representatives; but he did not tell us of that one appointed to investigate the conduct of the Canal Commissioners. These commissioners were, no doubt, honorable men—he wished to impute no unworthy motives to them. He would

not ask who it was they employed to defend their cause before the committee—the member from Somerset can best tell that. He can tell who it was that appeared before the committee, and was kicked out of the room for his disrespectful and ungentlemanly conduct. Nor would he ask the member from Somerset who it was that, after he was thus kicked out of the committee room, harangued the people, and, after gathering a mob, endeavored to excite to outrage—to lynch the members of the committee. The member from Somerset (said Mr. B.) had better refresh his memory on these subjects, and wipe the stains from his own county, and the character of its delegates, before he attempts to question those of the people of the county of Philadelphia, or its delegates. Mr. B. said he had not brought such subjects into the Convention, until forced to it by others. They should have no place here. But what has this Convention to do with my constituents?—no more than they have with the fooleries of the people of Somerset, or the conduct of their representatives. Here, (Mr. B. said,) he would leave the gentleman from Somerset, and come back to the question before the Convention.

I now repeat, Sir, said Mr. B., that it is time to instruct those committees to report, if they are to report at all. Some of them have already reported, as if from excessive haste, to prevent being instructed to report any measure of reform.

Mr. DICKEY (chairman of the committee on the 8th article,) here rose and remarked, that the committee of which he was the organ, had received no instruction whatever from the Convention, and that the report which they had instructed him to make was in pursuance of the duty imposed upon them by the Convention.

Mr. BROWN resumed. He knew very well that the committees had not been, and that they did not wish to be instructed. He knew, from the first, that the committees would not report any thing in conformity with the views of the majority of the Convention. This he knew from the construction of those committees. He was far from imputing any improper motives to the President, in their organization—but, whether it was accident or from design, such was the construction of those committees, that the Convention was not fairly represented by them.

Gentlemen had imputed to his colleague dissatisfaction with the Chair, on account of the omission of his name in the list of committees. He (Mr. B.) had felt no wish to be a member of any committee. If any gentleman felt any pride or pleasure in being placed at the head, in the middle, or at the tail of any one of them, he was perfectly welcome to all the honor and all the glory. His purpose was to place the Convention in possession of the fact that those committees, from their construction, were necessarily opposed to safe & satisfactory reform, in order that their minds might not be warped by the reports they might make. He had not said that lawyers were not as wise and as patriotic as other men; but, every one knew, they were accustomed to bow to established usages, and were taught by discipline and habit to adhere to precedent, and venerate the antique. From the bar of Pennsylvania, and particularly that of Philadelphia with which he was best acquainted, he would detract nothing. The fame which belonged to them, belonged to the State. The irreputation for talent, integrity, and honor, was unblemished. To them he would be willing to trust his life and his property. In the BINNEYS, the SER-



GEANTS, the CHAUNCEYS, the INGERSOLLS, he had the greatest confidence, in all matters in which they were not interested, or had not misjudged. But, (said Mr. B.,) they are no better than other men, and, like other men, are influenced by the bias of education and habit. No men could fairly judge with minds thus biased. They ought not to be entrusted to judge. Lawyers are not always the best judges. As a proof he would give the opinion of a highly respectable court in relation to lawyers. He referred to a statement contained in a letter lately received by a member of the Convention, who was present, from one of the counties in this Commonwealth. The letter states that at the recent sitting of the court, most of the cases ready for trial were put off on account of the absence of some of the lawyers engaged in them. The parties to one case withdrew it from court, and proposed to leave it to *three lawyers* for decision. But the Court advised them not to leave it to three lawyers, but to *one lawyer* and *two honest men*. If a judge held this opinion of lawyers, and thought it best that this case should be submitted to a majority of *honest men*, he was not afraid to submit to them even the judiciary system. Honest, sensible, and patriotic men—such as are everywhere in Pennsylvania, and such as were all around him, were perfectly competent to form a government best adapted to the situation and wants of the people of Pennsylvania. He disavowed any hostility to the gentlemen composing the committee on the 5th article of the Constitution—that relating to the judiciary, the distinguished chairman of that committee ranked high, in his estimation, as one of the ornaments and lights of his profession. He had once had the pleasure of attending a course of lectures delivered by him, and entertained no feelings towards him but that of the highest respect—he has my confidence in the soundness of his head and the purity of his heart. But, still, he must say that, as a judge, he could not with propriety sit in the committee, at the head of which he was placed. He did not know that he did. He hoped he did not. The common principles of justice forbade a judge from sitting on a case in which he was personally interested. He did not suppose that the honorable gentleman attended the meetings of the committee; nor would he believe it till he saw it in the minutes. Those who supposed any sense or reason left to the people will not believe it.

If, (said Mr. B.) any one principle is well known, settled and established, as a principle dear to the people of this commonwealth, it is that all officers shall, after a longer or a shorter term, come back to the people; that they will have no life officers. The enforcement of that principle, by a reform of the Constitution, is demanded by the public voice. The question was, whether the people should rule themselves, or whether they should be placed under some other power, a power independent of them, and over which they have no control. The principle of accountability must be extended to the judiciary system. The people demanded and expected it from us. He warned the Convention that the committees would not be instructed, that a majority of the committee on the judiciary, constituted as it was, would propose no change of the Constitution, and that those committees which had not reported would hasten to report, to prevent the possibility of any propositions for reform. It was in vain, under these circumstances, that the people called upon us to give them back their lost rights. Leaving the judiciary question, he would now pass



to another and very important subject, upon which the Convention was expected to act.

This State has been convulsed, for years, with the Governor's elections. More excitement, animosity, and confusion, were occasioned in this State by every election for Governor than ever occurred in the whole domain of the Autocrat of Russia. What was the reason? This Governor had the whole power to put officers in and out, at his pleasure. He had too much power and patronage—did any one doubt it—and shall we not take it from him? If it is to be taken from him, why not instruct the committee accordingly?

The choice of county officers was another subject of consideration. It was universally considered that it was proper and necessary, to give the people the election of their own township and county officers. This was a question of vital importance. He was aware that some persons thought the people ought not to be trusted with the election of their own officers, and that they must receive them from the hand of some superior and extraneous authority. He did not accord with this opinion; his own observation, for some years, of the mode of appointing these officers, had fixed upon him the conviction that it was absurd and unnecessary for the people of any township or county to send some hundreds of miles off to have their officers chosen for them. All the machinery made for this purpose, from the great machinery at Washington, to the little machinery here, was the worst and most mischievous that could be devised. The people, he was satisfied from history, as well as from his own observation, could choose better for themselves than any person upon earth could or would choose for them. They might sometimes make a mistake, or commit a folly, by choosing an improper officer, but still, the system was good, and in every way preferable, in its results, to any machinery that could be made at Harrisburg. For magistrates and township officers, what people would be so wild as to send a hundred miles from them, to an individual who came a hundred miles still further from them to appoint them. For county officers, why should the people come to Harrisburg? No! The people, if left to their own choice, would not be so mad as to entertain such a project for a moment. It was their right to choose those who should administer the laws among them—and they should be left to exercise it.

As the delegates of the county of Philadelphia, we, (said Mr. Brown,) came prepared to act on these subjects now. Those we represent have laid down these principles, leaving us room for their application. We are ready to give our votes at once for instructions on the general principles of reform, leaving the details to be filled up hereafter, in the Convention.

The extension of the right of suffrage, was another indispensable object of this body. The restriction of that right by the present Constitution, of two years residence and a tax qualification must be abolished. At present, it was in the power of the Legislature, by restricting the taxation, to deprive a large portion of the people of a vote. Every negro, by the Constitution of this State was entitled to a vote; but it was notorious, that very few of them were allowed to exercise that right, because, unless they were assessed, they could not vote. He would give no opinion now as to the propriety of allowing them the right of suffrage; although, at a proper time, he would be ready to express his views freely upon that as well as upon every other subject. If the law could deprive any one who

was constitutionally entitled of the right to vote, it could also deprive any other one of the right, and thus set at nought the most valuable right of freemen—the rights of an elector—the foundation of all free governments. Many persons in his district, though possessed of the tax qualification, were prevented by recent laws, such as the infamous registry act, from voting. He was willing that every citizen of the United States, after six months residence, should be allowed to come to the polls, without reference to tax qualification. He did not think that the Convention would be enlightened on these subjects by the reports. They might just as well have entered upon the consideration of these subjects without any preliminary proceeding. The object of the committees appeared to be to keep off amendments, instead of bringing them on. He concluded by remarking that it would soon be unnecessary to instruct the committees, as they would have already reported.

Mr. MERRILL, of Union, remarked, that in the wide range which the debate had taken, some observations had been made which required a reply. Without saying who began this devious course, and who followed it furthest, or who was right and who wrong, and without justifying the gentleman from Somerset in his attack upon those who were not present to vindicate themselves, he wished to say that the gentleman from Philadelphia county, who had just taken his seat, was not quite so much of a prophet as he thought he was. He has told us that the committee on the 5th article will not propose any modifications of the judiciary system; and he has warned us to give no attention to any opinions from the committee, unless they should be *ultra*, and next to him, for he goes furthest of all. How the gentleman can foresee with such certainty that no proposition of reform can come from the committee on the 5th article, I, (said Mr. M.,) cannot imagine. The gentleman says it is because there are so many lawyers on the committee.

Mr. INGERSOLL, of Philadelphia, here interposed and rose to a point of order. The gentleman, he said, seemed to him to be out of order; for, after listening to the tenor of his remarks, he found that they were not, according to the rule which he read, “confined to the question under discussion”.

The question, as he read from the minutes, was on the motion of Mr. DUNLOP to postpone the further consideration of the motion of Mr. PORTER to go into committee of the whole on certain resolutions offered by Mr. PURVIANCE. Mr. I. said he was not familiar with the rules, but he had listened with pain to the whole course of the argument this morning. It was certainly foreign to the whole subject under discussion, and he was in hopes before his colleague was called to order, that the Chair would arrest the remarks of the gentleman from Somerset. The whole thing had now gone far enough, and it was time to decide whether the debate was in order.

The PRESIDENT said many remarks had been made which did not appear to him as relevant to the question under debate, but they might seem to involve the question whether we should go into the consideration of certain subjects. The Chair had determined to decide in favor of that course which would allow the greatest freedom of debate, and permit gentlemen to express their views in their own way, provided they did not infringe upon the rules of order.

Mr. MERRILL continued: He should not, he said, have spoken at all, if the gentleman had not attempted to impress upon our minds that the committee on the fifth article, would not report any change of the judiciary system. He should not consider that he did his duty to the committee or to the Convention, if he suffered this attack upon the members of the Convention; and this attempt to forestal the opinion of the Convention as to the report, whenever it might be offered, to pass without a reply. What was the objection which the gentleman urged against lawyers? That they looked to precedent and respected authority; that they looked to those opinions, principles and institutions, which, in times past, have preserved the property and secured the liberties of mankind. This is what the gentleman denounces as a departure from common sense and common honesty. According to the gentleman, we must not have recourse, in forming our opinions, to the wisdom and experience of past times, but rely wholly upon our own limited observation and experience. He agreed with the gentleman fully, that the common opinion of the public at this day, was entitled to respect, but would the gentleman say that this generation is so much wiser than any which has preceded it, that we shall not be influenced by the opinions of any former generation? He agreed that we should not be led, by any authority, to countenance an infringement upon the rights of individuals. But, when the gentleman speaks of the opinions held in cities, counties, states, &c., he must ask what proof there was of the existence of such opinions.

The gentleman had spoke some very handsome compliments to the profession, and remarked that he would trust his life and property with them, though he warned us to pay no regard to their opinions on this subject. He (Mr. M.) did not claim any exclusive wisdom for the profession, though he thought their opinions upon subjects which had been their study, entitled to much reliance. If he wanted an opinion as to shoeing a horse, he would go to a blacksmith, and he would apply to a physician for a prescription. But he would not consult a physician in regard to shoeing a horse, nor ask a blacksmith for a prescription. How would the gentleman trust his life and liberty with a lawyer, and refuse to trust his opinion on a legal question?

Mr. M. said he had not made up his own mind as to the course proper to be pursued by the committee. The subject was still under consideration, and it was uncertain what the report would be. How, then, could the gentleman denounce the report of the committee, when the committee themselves did not know what would be the character of that report? What, he asked, would be the use of referring subjects to committees, if they were instructed what to do? The gentleman had remarked that he wished to guard the Convention against any opinions which might emanate from the committee on the fifth article. He trusted there was no danger that the opinions of the Convention would be led away by a report before they had considered it. He took it for granted that no gentleman would adopt the views of the report, whatever it might be, without regard to the considerations urged for and against it.

The gentleman from Philadelphia, had given them a pretty long harangue in relation to the tenure of office, and holding offices for life. Now Mr. M. would say, not with regard to the tenure of office, as he did not rise to argue that point, all he desired was to have the judgment exercised

so that the mind might come to correct conclusions as to what they ought and what they ought not to have. Had the gentleman, or could he show any particular instructions requiring him or any other gentleman to bring before the Convention any specific amendments which the people desired to have made into the Constitution? He knew of no such instructions to any member, nor could he infer from the vote by which the Convention was called that any such instructions were given to it. He supposed the people thought it right, as there had been a great deal said about reform, that there should be a convention called to revise the Constitution, and examine it, to see if any amendments were necessary, and this Convention had met for that purpose; but it did not necessarily follow, as he looked upon the instructions of the people, that they were to make changes in the Constitution, whether they were reforms or not. He believed that some amendments to the Constitution were necessary, but he did not consider those amendments of sufficient importance to warrant the expense of calling a Convention, and that the time was not auspicious for calm consideration, and he had voted against the call of the Convention for this very reason. He should not have troubled the Convention but for the remarks of the gentleman from Philadelphia, that the opinions of gentlemen would be forestalled by the reports of the committees, and that no changes in the Constitution would be made. He was of opinion that the gentleman was wrong in this assertion, and that there would be some amendments to the Constitution, but he trusted they would be of that character which the people would concur in, and not of that ultra character which they certainly would reject. It had been urged that because we have had a Constitution for forty years or more, that it should be changed, that it stood in need of being remodelled, to keep up with the improvements of the times. Was this to be the rule which gentlemen desired to have established? Were we never to have any settled institutions? Never any rule by which we were to hold our property? And was the Constitution ever to be subject to mutation and change? Did gentlemen argue that because we had a Constitution under which we had lived prosperous and happy for upwards of forty years, we ought to have a new one? No, sir. He came to very different conclusions, and thought that because we had been living thus long, happy and prosperous, under this instrument, we should touch it with tender hands, and this was the only principle which he had brought with him. With regard to amendments to be submitted to the Constitution, he was disposed to go for some of them, but if he had a reasonable doubt in relation to any one, as to its practical operation, he should feel bound to vote against it. We all know what we have, but we do not know what we are to get. But were gentlemen to get up and tell those who were not prepared to go for every amendment proposed, that they were not democrats, and that they were not in favor of any amendments to the Constitution? No gentleman had a right to say any such thing. The objection to a popular government, by those opposed to it, is that it does not protect the rights of the people, and if you want to show a popular government to advantage to the world, you must show that it does protect the rights of the people. What was the objection to the government of the people among all foreign nations? It was that the people did not protect the rights of each other. Now, Mr. M. was for pursuing a course which would recommend republican governments to all the na-

ions of the world. He wished the people to be the governors in all countries, and he wished to set them an example, which, if they followed, would lead to this desirable result.

Mr. HOPKINSON, of Philadelphia, said it seemed to him, that there must be some misapprehension of the question which had been so freely discussed. He did not understand the question now to be decided, whether the Convention would, or would not, go into committee of the whole, for the more free and full discussion of the various matters here to be decided. That was not the question, because, on that he did not understand there was any difference of opinion. He took it for granted, that, at some period of their deliberations, this Convention would resolve itself into committee of the whole, where all important matters would be taken into consideration, discussed and decided. The only question then, was about the time and the manner, and not about the thing itself. The question, as he understood it, was, whether the Convention would go into committee of the whole, in order to give instructions to the standing committees on certain specific propositions, which seemed to cover their whole labors ; and it was to this proposition that he objected. If these standing committees had been appointed by any improper means, or if the Convention had repented of the vote directing their appointment, let it say so ; but he did not like to do any thing indirectly which they ought to do by a direct affirmative vote. Was it not obvious that, by the adoption of the resolution of the gentleman from Butler, they would be telling the standing committees that they had nothing further to do than simply to obey the mandate of the committee of the whole ? What necessity would there be for these committees sitting and discussing complex propositions, when their reports were made for them before hand ?—As regarded the articles referred to them, they were instructed what to do, and they were made the mere agents and instruments to bring back to the Convention that which they had received from it. If it was the will of the Convention to change, alter, or abolish these committees, let it do so, openly, but not indirectly, as there had been a disposition manifested this morning. He objected to going into committee of the whole, not upon subjects of amendment generally, but upon this resolution of instruction, which was now under consideration. But the argument of this question had been conducted, as if those who oppose this resolution, intended, by that opposition, that it should not go to the committee of the whole, at all, for deliberation ; such was not his intention, nor did he believe such to be the intention of any one present who opposed this resolution.

He begged leave now to say a word or two on the subject of the Constitution itself. A gentleman from the county of Philadelphia (Mr. EARLE) seemed to think that this Constitution, under which we had lived for almost half a century, was put upon the people by some trick, some surprise, or to use the gentleman's own language, that it was stolen upon them by a trick, and that never until this hour had they given to it their approbation. Now if the gentleman would turn his attention to the course of proceedings had upon the adoption of the Constitution, he was sure he would be convinced, that it did not deserve the reproach which had been cast upon it. He would beg leave to recur to the facts in relation to the change which took place in the old Constitution, and the adoption of the new one. The first steps towards a change in the old Constitution of



Pennsylvania were taken in the Legislature in March, 1789. What did that Legislature do? They recommended to the citizens of the Commonwealth of Pennsylvania, in whom they said the whole power was vested, to take into consideration whether the Constitution of the State did or did not require revision. In March, 1789, the Legislature of Pennsylvania, then in session, recommended to the citizens of Pennsylvania, to take into their consideration whether they were willing to live under the Constitution as it then existed, or whether they should revise and substitute a new Constitution in its place. The Legislature then adjourned over from March to the following September, during which time it was the duty, and no doubt the conduct, of the representatives of that body, to make themselves acquainted with the opinions and wishes of their constituents. That same Legislature assembled again in September, having been at home among the people of the State, and having had the fullest and fairest opportunity of knowing the opinions of their constituents, and came to a clear opinion that the people of the State did require a revision of their Constitution. The Legislature then passed a law for the election of members to the Convention to revise that Constitution, and on the very first day of the meeting of that Convention, every county in the State, except two, was represented. Here then, the people gave their assent, through the act of their Representatives, and again, they gave their assent, by the election of members to that Convention; members sent there by the people, for the very purpose of forming this Constitution, and every county in the State being represented, save two. With regard to parties in that Convention he would not speak; the very parties existed then which exist now. They commenced their labors then just as open to the people as we do now, being surrounded by the people, having their proceedings sent forth by the public press, and receiving communications from the various parts of the State. And every gentleman who would take the pains to examine the proceedings of that day, would see the mutual kindness and forbearance with which the members of that Convention considered, discussed, deliberated and decided on that Constitution. In the month of February, they had so far formed a Constitution, as they thought suitable to the wishes of the people, as to induce them to adjourn; but they did not then march out in procession, as had been said by some gentleman, to put the Constitution of Pennsylvania in force. They then ordered a large number of the Constitution to be published, and disseminated among the people, and adjourned over till the next August, giving the people six months time to make up their minds upon it. Here it was discussed through the public papers and private societies, so that the people might make up their minds in relation to it, and communicate their opinions to the representatives or Convention. In August these same members again assembled, and the Constitution was taken up, and some slight amendments made to it, but none of importance, and adopted, and then it was that the procession took place, to which the gentleman had alluded. Now, he begged leave to submit one fact, to show how entirely this Constitution met the full and perfect approbation of the people of Pennsylvania. During the discussions on that subject, it will be seen, by looking at the minutes that there were differences of opinion upon various points of the Constitution; on some points one party would object, and on others other parties; but when these representatives of the people, when these



members of the Convention, after they had returned from among their constituents, and no doubt conversed freely with them, and learned from them their opinions, when the public papers had been busy in giving their opinions, yet when these men, after all this intercourse with the people, returned to the Convention, every man of them voted for it, save one ; even those who had made their objections, and were not satisfied with certain parts of it. However much, some of them might have been dissatisfied with certain parts of it, after they returned from among the people, and consulted them on the subject, they all voted for it, save one, and he being of the society of Friends, did not subscribe to it, in consequence of the provision in relation to military service—as I presume you will find among the names of the signers of that instrument, those of WILLIAM FINDLAY and ALBERT GALLATIN, and these men were then, and have been since, among the most talented of the democratic party. These men had made objections to many parts of it, but after they came back from among the people they were satisfied, took it as it was, and voted for it. This Constitution, from the time the question of amendment and revision was first agitated, to the time of the termination of the labors of the Convention, was eighteen months before the people, from March, 1789, to September, 1790. Was this then stealing a march upon the people ? He thought not. Were the people less intelligent then than they are now ? He thought not. And whatever may be the faults of the Constitution now, and whatever amendments it may require, it was certain, that at the time of its adoption, it had the full and perfect approbation of the people. But gentlemen say, it was not submitted in form to the people. Certainly it was ; and he did not think any gentleman would say that there was no other mode of ascertaining the will of the people than by a direct vote on the question.

He did not know that the people now had given an opinion for the change of the Constitution ; but gentlemen say they have. Well, how do they come to their conclusion ? They come to it by conversations and by other means, but certainly, not by a direct vote of the people. They have supposed, and he did not say unwisely, that the experience of forty-seven years may have suggested amendments which it seemed necessary to make to the Constitution of the State ; and, again, that the condition of society had undergone such important changes, that it was necessary we should make some experiment on the Constitution. But the people had not sent us here with instructions, by any vote they had given, to alter the Constitution at all hazards. No, sir, we are sent here as the grand inquest of the nation to sit upon the body of the Constitution, and enquire and decide whether or not it ought to be amended, and if the intelligent members of this body believe that it requires no amendment it, is their duty to say so. For his own part, he was satisfied with the Constitution as it stands, and in that opinion he was sustained by a large vote of the people of the Commonwealth. It had been explained by the gentleman from Somerset, (Mr. Cox) that at this very election there were upwards of 40,000 more votes given for the candidates for the office of Governor, than on the question of the calling of the Convention. Then, without assuming that they were on one side or the other, he might assume that they were perfectly indifferent whether the Convention met or not. But, when he said that he was perfectly satisfied with the Consti-

tution as it stands, he did not say that this Convention should make no amendments. There were matters which he thought might be improved, but still he would rather take the instrument as it was, than run the hazard of breaking it up. He admitted that he came into this body with preconceived attachments, which had grown up with him from his youth, for the Constitution of the State, which had been prosperous and happy under it, and which was second certainly to none in this great Union. He had attended the Convention which framed this Constitution, and heard the debates on the adoption of this instrument which has been the great cause of the happiness and prosperity of this great Commonwealth. He did not, however, come here pledged to any body, not even to his own prejudices, because, there might be amendments which he would readily assent to ; but, he did hope, the great foundations of government would not be broken up for trifling considerations.

Mr. PORTER, of Northampton, said that he felt little disposition and less ability, at this time, to make a long speech, but that a sense of duty to this body compelled him to rise. We had assembled here for grave and important purposes ; to examine, and if need be, alter and amend the instrument on which all the action of our government would have to depend. He had felt pained and hurt to see how far gentlemen had departed from the question before the chair, and had turned the Hall of this Convention into an arena for political gladiators, to exhibit their skill upon each other. For his part, he never had much relish for "small politics", and would like to see them banished from this Hall, where great principles were to be deliberated and settled, and where dignity and decorum ought to prevail. That here both parties had been in the wrong, words of heat and passion had led excitement on until gentlemen forgot what was due to themselves and this House. And in thus departing from the proper subjects of discussion, gentlemen would find themselves launched on a wide ocean, without compass, rudder or chart, and experience great difficulty in returning to a safe haven. He did desire, if his voice could have any influence, that gentlemen would confine themselves to the subject of debate, without going into these irrelevant and uncalled for political discussions. He felt concerned for the reputation of this body. The gentleman from Philadelphia had been wrong, and, in his judgment, out of order, in impugning the conduct of the President in relation to the appointment of the committees. You, sir, (said Mr. P.) owe your seat as presiding officer, which you fill with so much ability, to a party vote, and to party influence. I had the honor to be your competitor for that station, and was sustained by the party to which I belonged. Had I succeeded, it would have been required of me that I should, in my selection of committees, have given a preference to my political friends ; and, sir, I should not have disappointed their expectations. And we ought to have magnanimity enough to accord to our opponents that which we would have claimed and exercised for ourselves. But, sir, although I cannot excuse my friends from Philadelphia for the course they took, still less can I find palliation or excuse for the gentleman from Somerset. This Convention has conferred upon you, as its President, the right to invite respectable gentlemen, & distinguished citizens within the bar of this House. In the proper exercise of this right, you invited a distinguished Senator and statesman of our own State, to a place within this Hall. Whilst that gentle-

man was so here, the member from Somerset, forgetting or disregarding the courtesies of life, chose to attack the Senator when he had no opportunity to reply, and reiterated on this floor an oft told falsehood against him. (Here Mr. Cox rose to explain, and said that he was not aware that Mr. BUCHANAN was present when he made the assertion.)

Mr. PORTER proceeded. I am glad to find that the gentleman himself sees and feels, the impropriety of his conduct, and I trust this may be a lesson to us all hereafter, and teach a greater regard to the courtesies and proprieties of life, than we have this day seen exhibited. I may be permitted here to say, however, in order to put down the tale so oft reiterated, that the assertion that JAMES BUCHANAN ever said, "that he thanked God, that he had not a drop of democratic blood in his veins, and that if he thought he had, he would let it out", is as false as falsity itself. And I call upon the honorable delegate from Lancaster on my left (Mr. REIGART) to bear me out, if necessary, in this assertion. I have felt myself compelled to say this, as that Senator was the friend of my youth, and however at times we may have differed, has always held a high place in my estimation. I call upon the considerate gentlemen of this Convention to unite with me in endeavoring to prevent the recurrence of such scenes. There is no gentleman on this floor, who has it more in his power to assuage the acerbities of party conflicts in this body, than the gentleman from Allegheny, (Mr. FORWARD) and I know no more enviable situation for a member of this House to occupy, than to stand, as it were, on the isthmus between the contending parties, and say to the angry waves of party violence "thus far shall they go and no further".

Mr. PORTER added, that the county which he represented, had given nearly 2,000 majority against the call of a Convention, and that perhaps that majority had been somewhat increased by his own exertions: That, with a full knowledge of this, the people had selected and elected his colleague and him, by almost the same majority: That his constituents, although they had decided that the call of a Convention was not, at that time, in their judgment requisite, yet had a wish that some of the provisions of the Constitution should be altered, and, in their belief, amended, and they had accordingly instructed their representatives to that effect, and he and his colleagues were willing and prepared to carry out their instructions. But that the people of Northampton had no desire to see the system of government uprooted, or its foundation destroyed. They wished the subject approached with caution, examined with deliberation, and decided with great care and attention.

Mr. P. in conclusion. said he had risen to try to restore peace and order, and he hoped that nothing he had said might have the effect of adding fuel to the flames which had been raging.

Mr. FORWARD rose for the purpose of making a motion to obtain an adjournment of the Convention for a few days. A number of the standing committees had not yet reported, nor had they agreed as to what report they would make. They had the views of a number of individual members of the Convention now upon the table, and he desired, and he thought every member of the Convention must desire to see the whole of these propositions before him, as well the suggestions of individuals as the reports of committees, before he would feel himself prepared to act.— Mr. F. confessed he did not feel himself wholly prepared to act on this

question, until he had all of these propositions before him. He thought the Convention would gain time by adjourning over a few days, to give the committees a full opportunity for deliberation, and then when they should lay before the Convention the result of their labors, which he imagined they would do in the course of a few days, the Convention would be prepared to act understandingly on the whole subject. He then moved to postpone the subject under consideration for the purpose of making a motion that when the Convention adjourn it adjourn to meet on Thursday next.

The question was then put, and decided in the negative, ayes 57, noes 46; it requiring a vote of two-thirds to suspend the orders.

Mr. JENKS then moved to suspend the orders for the purpose of asking leave to make a motion to adjourn over until Monday. Ayes 71, noes 24, so the motion was agreed to.

Mr. JENKS, having obtained leave, moved that when the Convention adjourns, it adjourn to meet on Monday.

Mr. STEVENS, of Adams, moved to amend the motion, by striking out "Monday", and inserting "Thursday".

Mr. M'DOWELL, of Bucks, moved to insert "Tuesday".

The question was then taken on the motion of Mr. STEVENS, and decided in the negative—ayes 40, noes (not counted.)

Mr. PORTER, of Northampton, moved to insert "Wednesday", which was decided in the negative—ayes 41, noes (not counted.)

Mr. WOODWARD moved that the Convention now adjourn, which was decided in the negative.

The question was then put on the motion of Mr. M'DOWELL, when the ayes and noes were demanded by Mr. HIESTER, and the motion was then decided in the negative, as follows:

YEAS—Messrs. Agnew, Ayres, Baldwin, Barclay, Barnitz, Bayne, Bell, Biddle, Bonham, Brown, of Lancaster, Butler, Chambers, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Cope, Cox, Cunningham, Denny, Dickey, Doran, Fleming, Forward, Gamble, Gearhart, Henderson, of Dauphin, Hopkinson, Ingersoll, Jenks, Konigsmacher, Maclay, M'Cahen, M'Dowell, Meredith, Merrill, Nevin, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Riter, Rogers, Sacger, Scott, Seltzer, Sill, Snively, Sterigere, Stevens, Stickel, Todd, White, Sergeant, *President*—56.

NAYS—Messrs. Banks, Barndollar, Bedford, Bigelow, Brown, of Northampton, Carey, Chandler, of Chester, Cleavinger, Coates, Cochran, Craig, Crain, Crawford, Crum, Cummin, Curll, Darlington, Darrah, Dickerson, Dillinger, Dunlop, Earle, Farrelly, Foulkrod, Fry, Fuller, Gilmore, Grenell, Harris, Hastings, Hayhurst, Helffenstein, Henderson, of Allegheny, Hiester, High, Houpt, Hyde, Keim, Kennedy, Kerr, Krebs, Long, Lyons, Mann, Martin, M'Call, M'Sherry, Miller, Montgomery, Overfield, Purviance, Reigart, Read, Ritter, Royer, Russell, Serrill, Scheetz, Shellito, Smyth, Swetland, Taggart, Thomas, Woodward—64.

Mr. JENKS presumed he would be permitted to make a very few remarks, to show the reasons which had governed him in making this motion. Little did he think when he entered this body that he should see a motion brought forward of a character so much at variance with the universal usage in legislative bodies, and least of all that he should have witnessed this august body consuming four or five days in discussing that question. In relation to the proposition of the gentleman from Butler, there were some two or three matters in it which he was prepared to give

his assent to; but while he was prepared to give his assent to them, there was one matter at least connected with it of such vital importance, and so identified with the principles of our government, that he desired to deliberate, and deliberate seriously, before he gave his vote for it. He could not now say what qualifications additional reflection might make in his mind, but he was not as yet prepared to go for lessening the power of one co-ordinate branch of the Government, and conceding it to another, which might in itself swallow up all the powers of the Government. He therefore desired that these propositions should be referred to a standing committee, that it might deliberate and report upon them, and bring them before the Convention in a manner and at a time when it would be better prepared to act upon them, than it was in its present state of excitement. He did not believe, that gentlemen were in the best situation to deliberate on this question when their feelings were excited, as at present, therefore it had occurred to him that if the Convention would agree to adjourn over to give the standing committees an opportunity to deliberate, on the subjects referred to them, and to give members a chance, by sober reflection, to dissipate the irritation which many now are laboring under, they would assemble again with a general disposition to receive the reports from the standing committees, and act upon them advisedly and harmoniously.—For these reasons he hoped the Convention would adjourn over until Monday.

Mr. DARLINGTON moved that the Convention now adjourn—negatived : ayes 42, noes 92.

Mr. EARLE begged leave to say a word or two on the subject of adjourning over until Monday. He knew there were many gentlemen, whose residence was not distant, who desired to go home until Monday, and he for one would vote to grant them leave, if they should ask it; but he could see no good reason why those, who were disposed to remain and continue the discussion of the question, should be prevented from doing so. He believed that the members of the committees could do just as much in a day, when the Convention was sitting, as they could if it adjourned over, as they could meet in the morning before meeting of the Convention, and in the afternoon, after its adjournment; but he doubted very much, whether many of them would not leave the place if the Convention adjourned over. But beside this, there were about forty of the delegates who were not on these committees, who would have no occupation whatever during this proposed adjournment, and many of these gentlemen were desirous of expressing their sentiments to the Convention, and were they to be denied this privilege? He should vote for granting leave to any gentleman to go home, who might have a desire to do so, but at the same time, he hoped that those who might be anxious to remain in session, and attend to business, might not be denied the opportunity.

Mr. HASTINGS, of Jefferson, moved to amend the motion by striking out “ten”, as the hour to which the Convention shall stand adjourned, and inserting “nine”, and by adding the words “and that this be the daily hour of meeting thereafter”, which motion was decided in the negative—ayes 49, noes 51.

The question was then put on the motion, that when the Convention adjourn, it adjourn to meet on Monday, and, the yeas and noes being demanded by Mr. DUNLOP, it was determined in the affirmative, as follows :



**YEAS**—Messrs. Agnew, Ayres, Baldwin, Barnitz, Bayne, Bell, Biddle, Bonham, Brown, of Lancaster, Butler, Carey, Chambers, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cline, Cochran, Cope, Cox, Craig, Cunningham, Denny, Dickey, Dickerson, Doran, Farrelly, Fleming, Forward, Foulkrod, Gamble, Gearhart, Helffenstein, Henderson, of Dauphin, Hiester, Hopkinson, Jenks, Kerr, Konigmacher, Mann, M'Cahen, M'Call, M'Dowell, Meredith, Merrill, Merkel, Montgomery, Nevin, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Rogers, Russell, Saeger, Scott, Seltzer, Serrill, Shellito, Sill, Snively, Sterigere, Stevens, Stickel, Todd, White, Sergeant, *President*,—68.

**NAYS**—Messrs. Banks, Barndollar, Bedford, Brown, of Northampton, Brown, of Philadelphia, Chandler, of Chester, Cleavinger, Coates, Crain, Crawford, Crum, Cummin, Curll, Darlington, Darrah, Dillinger, Dunlop, Earle, Fuller, Gilmore, Grenell, Harris, Hastings, Hayhurst, Henderson, of Allegheny, High, Houpt, Hyde, Ingersoll, Keim, Kennedy, Krebs, Long, Lyons, Maclay, Martin, M'Sherry, Miller, Overfield, Purviance, Reigart, Read, Ritter, Royer, Scheetz, Smyth, Sweetland, Taggart, Thomas, Woodward, Young—51.

Mr. BANKS, of Mifflin, asked and obtained leave to submit the following resolution, which was ordered to be laid on the table and printed.

*Resolved*, That the committee on the first article of the Constitution be requested to enquire into the expediency of so amending the sixth section of that article, as that Senators shall be elected for two years, instead of four, as mentioned in the said section.

*Also*, That the said committee enquire into the expediency of so amending the ninth section of the said article, that Senators shall be divided into two, instead of four classes, so that one half of the whole number of Senators shall be elected every year.

*Also*, That the committee on the second article of the Constitution be requested to enquire into the expediency of so amending it in the third section, that the Governor shall not be capable of holding his office longer than six, in any term o' nine years.

*Also*, That the committee on the third article of the Constitution be requested to enquire into the expediency of so amending it, in the first section, that all persons bound to do military duty, of the age of twenty-one years, and being also naturalized citizens, and who have resided in the State one year next before the election at which they offer to vote, and who have been enrolled in the militia, worked one day upon the roads or highways, or contributed to the public taxes, whether assessed six months before the election or not, be entitled to vote: *Provided*, That all such persons, between the age of twenty-one and twenty-two years, may vote, whether they have complied with the aforesaid requisitions or not.

*Also*, That the committee on the fifth article of the Constitution be requested to enquire into the expediency of so amending the second section of the said article, as that the Judges of the Supreme Court, and of the several courts of Common Pleas, instead of holding their offices during good behaviour, shall hold their offices as follows, viz: The Judges of the Supreme Court, for ten years; the President Judges of the court of Common Pleas, for seven years, and the Associate Judges for five years; and that instead of being appointed by the Governor, as mentioned in the eighth section of the second article, they shall be nominated by the Governor, and the said nomination approved by the Senate, before commissioned.

*Also*, That the tenth section of the fifth article be so amended, as that Justices of the Peace shall be elected by the persons entitled to vote for members of the House of Representatives: and on the same day, for the term of three years; and that they shall be apportioned among the people of the townships, boroughs, and districts of the respective counties in the State, in such manner as that there shall be at least one for every hundred and fifty inhabitants, until otherwise apportioned by law.

*And also*, That the committee on the sixth article of the Constitution be requested to enquire into the expediency of so amending the said article, as that Prothonotaries, Clerks of the Oyer and Terminer, of the Peace, and Orphans' courts, Records of deeds, Registers of wills, and county Surveyors, shall be elected by the people, for the term of three years, as Sheriffs and Coroners are, according to the first section of the said sixth article.



Mr. STERIGERE, of Montgomery, asked and obtained leave to submit the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the Constitution of this State ought to be altered as proposed by the following amendments, which should be submitted to the people for their adoption or rejection:

Amendment No. 1. To be in lieu of section IV, article 1.

IV. *In the year one thousand eight hundred and thirty-eight*, and in every seventh year thereafter, an enumeration of the taxable inhabitants shall be made in such manner as shall be directed by law. The number of Representatives shall, *at the next session of the Legislature after making such enumeration*, be fixed by the Legislature, and apportioned among the city of Philadelphia and the several counties, according to the number of taxable inhabitants in each, and shall never be less than *eighty* nor more than one hundred. *Each county now erected shall have at least one Representative, but no county shall hereafter be erected*, unless a sufficient number of taxable inhabitants shall be contained within it to entitle them to one Representative, agreeably to the ratio which shall then be established. *No two or more counties shall be connected to form a district, nor shall any county be entitled to an additional Representative on any number of its taxable inhabitants, less than two thirds of the one hundredth part of all the taxable inhabitants of the Commonwealth.*

Amendment No. 2. To be in lieu of section V, article 1.

V. The Senators shall be chosen for *three* years, by the citizens of Philadelphia, and of the several counties, at the same time, in the same manner, and at the same places, where they shall vote for Representatives.

Amendment No. 3. To be in lieu of section VII, article 1.

VII. The Senators shall be chosen in districts to be formed by the Legislature, *at the same time the Representatives are apportioned among the several counties*, each district containing such a number of taxable inhabitants as shall be entitled to elect one Senator, *except when the city of Philadelphia or any one county, shall contain such proportion of the taxable inhabitants of the State as may entitle it to elect two or more Senators, in which case such city or county shall not be divided to form a district.* Nor shall the city of Philadelphia or any county be divided in forming a district. When a district shall be composed of two or more counties they shall be adjoining. *No district shall be entitled to an additional Senator on any number of its taxable inhabitants less than two thirds of one thirty-third part of all the taxable inhabitants of the Commonwealth.*

Amendment No. 4. To be in lieu of section IX, article 1.

IX. *At the expiration of the term of any class of the present Senators, successors shall be elected for the term of three years. The Senators who may be elected in the year one thousand eight hundred and forty-one, shall be divided by lot into three classes.—The seats of the Senators of the first class shall be vacated at the expiration of the first year, of the second class at the expiration of the second year, and of the third class at the expiration of the third year, so that thereafter one third may be chosen every year.*

Amendment No. 5. To be in lieu of section X, article 1.

X. The General Assembly shall meet on the first Tuesday of *November* in every year.

Amendment No. 6. To be in lieu of section XI, article 1.

XI. *The Lieutenant Governor shall be President of the Senate, but shall have no vote except when the Senate is equally divided, and while in attendance as presiding officer of the Senate, shall receive double the compensation paid to a Senator until otherwise provided by law. The Senate shall choose its other officers, and also a president pro tempore in the absence of the Lieutenant Governor, and when he shall exercise the office of Governor, who in case of a vacancy in the office of Governor and Lieutenant Governor shall perform the duties of Governor until such vacancy be filled. The House of Representatives shall choose its Speaker and other officers.*

Amendment No. 7. To be in lieu of section XIX, article 1.

XIX. When vacancies happen in either House, the *presiding officer thereof* shall issue writs of election to fill such vacancies.

Amendment No. 8. To be in lieu of section XXII, article 1.

XXII. Every bill which shall have passed both Houses shall be presented to the Governor. If he approve, he shall sign it, but if he shall not approve, he shall return it with his objections to the House in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to reconsider it. If after such reconsideration *a majority of all the members* of that House shall agree to pass the bill, it shall be sent with the objections to the other House, by which likewise it shall be reconsidered, and if approved by *a majority of all the members* of that House it shall be a law. But in such case the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journals of each House respectively. If any bill shall not be returned by the Governor within ten days, (Sundays excepted,) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the General Assembly by their adjournment prevent its return, in which case also it shall be a law unless *the Governor shall file the bill together with his objections in the office of the Secretary of the Commonwealth, and cause the same to be published in at least one newspaper published at the seat of government, within ten days after the adjournment of the Legislature.*

Amendment No. 9. To be in lieu of section XXIII, article 1.

XXIII. Every order, resolution or vote to which the concurrence of both Houses may be necessary, (except on a question of adjournment,) shall be presented to the Governor, and before it shall take effect be approved by him, or being disapproved, shall be re-passed by *a majority of all the members of each House*, according to the rules and limitations prescribed in case of a bill.

Amendment No. 10. To be section XXIV, of article 1.

XXIV. *No lottery shall be authorised by the Legislature, and the sale of lottery tickets shall be prohibited under such penalties as may be imposed by law.*

Amendment No. 11. To be section XXV, of article 1.

**XXV.** *No bank, rail road company, navigation or canal company, shall be chartered, unless three fifths of each branch of the Legislature concur therein. No bank shall be chartered with a capital of more than two millions and a half of dollars, unless two-thirds of each branch of the Legislature concur therein, nor with a capital of more than five millions, unless three fourths of each branch concur therein. Nor shall any bank be chartered with a capital greater than ten millions of dollars, nor for a longer period than ten years, unless the law chartering the same be passed by three-fourths of all the members of each House at two successive sessions of the Legislature and be approved by the Governor, in which case the bill which may be passed the first session shall be published with the laws enacted at such session. No bonus shall be required or allowed to be paid by any bank to the State for the corporate privileges granted to it, and any law chartering or re-chartering a bank which provides for the payment of a bonus for such chartered privileges, shall be wholly void, but all sums of money required to be paid by any bank for such privileges, shall be a yearly or half yearly tax on the profits or stock of the company.*

Amendment No. 12. To be section XXVI, of article 1

**XXVI.** *The Legislature shall have power to repeal, alter or modify any charter which has heretofore been or may hereafter be granted, to any bank whenever in their opinion the public interest may require it; but no such alteration shall be binding on any bank, unless the same be assented to by a majority of the stockholders, certified in such manner as may be prescribed by law. And in case the bank whose charter may be so altered, shall neglect or refuse to assent to such alteration within the period fixed by law, the chartered privileges granted to such bank, shall thenceforth cease and determine, except so far and for so long a time as may be necessary to collect its debts and wind up its concerns, not exceeding two years. Provided, That when any such charter shall be repealed or altered, or shall cease as aforesaid, in case any bonus or sum of money other than a tax on the annual profits or stock of the bank may have been paid to the State by any bank heretofore chartered, the State shall retain for the privileges enjoyed, only so much of such bonus or sum as will be a just proportion of the bonus or sums such bank was to pay for the privileges granted to it, having a due regard to the amount of capital and the duration of the charter of such bank, to be determined in such manner as may be provided by law.*

Amendment No. 13. To be in lieu of section III, article 2.

**III.** *The Governor shall hold his office during three years from the third Tuesday of December next ensuing his election, and shall not be capable of holding it longer than six years in any term of twelve years.*

Amendment No. 14. To be in lieu of section VIII, article 2.

**VIII.** *The Governor shall nominate, by and with the advice and consent of the Senate, appoint all officers established by the Constitution hereby amended, whose appointments are not herein otherwise provided for, or which has been or shall be established by any law in which the appointments may not be prescribed; and shall have power to fill up all*

*vacancies that may happen during the recess of the Senate, by appointments which shall expire at the end of the next session, but no person shall be appointed to any office within any county, who shall not have been a citizen and inhabitant therein one year next before his appointment, if the county shall have been so long erected, but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken. No member of Congress from this State, or any person holding or exercising any office of trust or profit under the United States, shall at the same time hold or exercise any State or county office in this State, to which a salary is by law annexed: Provided, That the judges and other persons in office, whose appointment is not provided for in the amendments, shall enjoy their respective offices as if these amendments had not been made.*

Amendment No. 15. To be in lieu of section IX, article 2.

IX. *The Governor shall have power to grant reprieves, and with the consent of the Senate, may grant pardons, except in cases of impeachment, and remit fines and forfeitures.*

Amendment No. 16. To be in lieu of section XIV, article 2.

XIV. *A Lieutenant Governor shall be elected at the same time, in the same manner, for the same term, and under the same restrictions, that the Governor is elected, who shall, in case of the absence, death, removal from office, resignation or refusal to serve of the Governor, exercise the office of Governor. And if the trial of a contested election shall continue longer than until the third Tuesday of December next ensuing the election of Governor, the Lieutenant Governor shall exercise said office until the determination of such contested election, and until a Governor shall be qualified as aforesaid. The Lieutenant Governor shall, while exercising the office of Governor, receive the same salary as is by law paid to the Governor.*

Amendment No. 17. To be in lieu of section I, article 3.

I. *In elections by the citizens every free white male citizen of the age of twenty-one years, having resided in the State one year next before the election, within that time paid a state, county, road or poor tax, or a militia fine, which shall have been assessed, or imposed on him, or shall be exempted from the payment of tax, every free white male citizen born in the United States, and every son of a naturalized citizen, between the age of twenty-one and twenty-two years, who may have resided in this State two years before the election, the last year thereof in the county where he may offer his vote, shall enjoy the rights of an elector. Provided, That neither paupers nor persons under guardianship, nor persons who have been convicted of any infamous crime, nor persons non compos mentis, nor habitual drunkards, shall be permitted to vote at any election. The election laws shall be equal throughout the State, and no greater or other restrictions shall be imposed on the electors in any city, county or district, than are imposed on the electors of every other city, county or district.*

Amendment No. 18. To be in lieu of section II, article 5.

II. *The Judges of the Supreme Court shall hold their offices until the age of seventy years, if they shall so long behave themselves well. The President Judges of the several Courts of Common Pleas, Recorders of*

*the Mayor's Courts, Associate Judges of the Court of Common Pleas of the city and county of Philadelphia, and Judges of any District Court or other Court established by law, whose tenure is not of a shorter period, under such law, shall hold their offices during the term of seven years, and no longer; and the Associate Judges of the several Courts of Common Pleas, except in the city and county of Philadelphia, shall hold their offices for five years, and no longer. For any reasonable cause, which shall not be sufficient ground of impeachment, the Governor shall remove any such Judges on the address of both branches of the Legislature. The Judges of the Supreme Court, the presiding Judges of the several Courts of Common Pleas, and the Judges of the District Courts, shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit under this Commonwealth:— Provided, That the President Judges of the several Courts of Common Pleas, Recorders of the Mayors' Courts, Associate Judges of the Court of Common Pleas of the city and county of Philadelphia, and Judges of the several District Courts, whose commissions bear date before the first day of April, one thousand eight hundred and twenty-five, shall hold their offices for three years after the first day of April next, and no longer. Those whose commissions bear date on or after the said first day of April, one thousand eight hundred and twenty-five, and before the first day of April, one thousand eight hundred thirty-one, shall hold their offices for five years from the first day of April next, and no longer; and those whose commissions bear date on or after the said first day of April, one thousand eight hundred and thirty-one, shall hold their offices for seven years after the first day of April next, and no longer, unless any of the said offices shall be limited, by law, to a shorter period. The Associate Judges of the several Courts of Common Pleas, except in the city and county of Philadelphia, whose commissions bear date before the first day of April, one thousand eight hundred and thirty-one, shall hold their offices for three years from the first day of April next, and no longer; and those whose commissions bear date on or after the said first day of April, one thousand eight hundred and thirty-one, shall hold their offices for five years after the first day of April next, and no longer.*

Amendment No. 19. To be in lieu of section X, article 5.

X. The Governor shall, by and with the advice and consent of the Senate, appoint a competent number of Justices of the Peace, in such convenient districts, in each county, as are or shall be directed by law, not to exceed two in any township, unless a greater number be allowed by law. They shall be commissioned for five years; but shall be removed on conviction of misbehaviour in office, or of any infamous crime, and on the address of either branch of the Legislature: *Provided, That the last appointed Justice of the Peace, commissioned before the first day of April, one thousand eight hundred and thirty-seven, in each township and borough in the State, shall hold his office five years from the first day of April, one thousand eight hundred and thirty-eight, and no longer; and all other Justices of the Peace, Aldermen and Notaries Public, shall hold their offices three years from the said first day of April, one thousand eight hundred and thirty-eight, and no longer;*



*and no Justice of the Peace shall be appointed in any township, borough or ward, as aforesaid, unless the number therein shall be less than is allowed by this amendment, or by law ; or they shall be reduced below such number, by death, resignation, removal, or otherwise.*

Amendment No. 20. To be in lieu of section I, article 6.

*I. Sheriffs, Coroners, Prothonotaries of the Courts of Common Pleas, Registers of wills, Recorders of deeds, and Clerks of the Courts of Oyer and Terminer and Courts of Quarter Sessions, in each county and city, shall, at the times and places of election of Representatives, be chosen by the citizens of such county and city, and commissioned by the Governor, and shall hold their offices for three years, and until successors be duly elected and commissioned, if they shall so long behave themselves well ; but shall be removed by the Governor, on the address of either branch of the Legislature. No person shall be twice chosen and commissioned Sheriff in any term of six years. Vacancies in either of the said offices shall be filled by the Governor, to continue until the next general election, and until a successor shall be chosen and qualified as aforesaid.*

Amendment No. 21. To be in lieu of section V, article 6.

*V. The Auditor General, Secretary of the Land office, Surveyor General and State Treasurer shall be appointed annually by the joint vote of the members of both Houses. The Attorney General, Prothonotaries of the Supreme Court and District Courts, Clerks of Mayors' Courts, all officers in the treasury and land departments, attorneys at law, election officers, all officers relating to Common Schools, to taxes, to the poor and to highways, Constables and other township officers, shall be appointed in such manner as is or shall be directed by law.*

Amendment No. 22. To be section I, article 10.

*I. Any amendment or amendments to the Constitution of this State, may be proposed in the Senate or House of Representatives, and if the same shall be agreed to by a majority of all the members of each House, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature then next to be chosen, and shall be printed with the laws passed at the same session, and published for three months previous to the next general election, and if the Legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members of each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe ; and if the people shall approve and ratify such amendment or amendments by a majority of electors, qualified to vote for members of the Legislature voting thereon, such amendment or amendments shall become part of the Constitution, from and after the first day of January next, after such vote.*

Mr. BONHAM, of York, asked and obtained leave to submit the following resolution, which was ordered to be laid on the table, and printed.

*Resolved, That the committee on corporations be instructed to enquire into the expediency of so amending the Constitution, as to prevent the Legislature from granting privileges to any incorporated company or companies, from entering on, or passing*



through the lands of any citizen of this Commonwealth, without first paying, or giving security for the payment of all damages which may be done by such trespass.

The Convention then adjourned.

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MONDAY, MAY 15, 1837.

Mr. FARRELLY, of Crawford, presented a petition from certain citizens of Erie county, on the subject of a provision against banking corporations, which was read, and on motion of Mr. FARRELLY, referred to the special committee on the currency.

Mr. INGERSOLL, of Philadelphia, submitted certain amendments to the present first article of the Constitution, which he proposed to be made the second article of the Constitution, and an amendment to be entitled the first article, and a caption, as follows :

**CONSTITUTION OF THE STATE OF PENNSYLVANIA,**

*As matured in Convention, on the second day of September, one thousand and seven hundred and ninety, amended in another Convention in one thousand eight hundred and thirty-seven, and ratified by the people at large.*

The people of the State of Pennsylvania ordain and establish this Constitution of Government :

**ARTICLE I.—DISTRIBUTION OF POWER.**

The respective powers of Government, Legislative, Executive and Judicial, are by this Constitution, severally distributed and established in three distinct branches, viz : A Legislature, a Governor, and a Judiciary, neither of which separate branches shall exercise the authority of either of the others, except where this Constitution so directs.

**ARTICLE II.—LEGISLATURE.**

**Section 1.** The legislative power of this Commonwealth shall be vested in two separate branches, viz : A House of Representatives and a Senate, who, together with a Governor, shall have all the power of making laws, not inconsistent with this Constitution, the sovereignty of the people, and the inherent limitations of annual trust delegated by that sovereignty.

**SECT. 2.** The Legislature shall meet every year on the first Thursday in January, unless convened at another time by the Governor, and shall adjourn on the first Thursday in April, unless continued longer in session by law for that purpose.

**SECT. 3.** At the first meeting of the Legislature under this Constitution, and every fifth year thereafter, the inhabitants of this State shall be enumerated by law, and together with such quinquennial enumeration, there shall be taken by law a valuation of all the property and a complete statistical account of all the political elements of the commonwealth, to be ascertained, preserved and published, as the Legislature may direct.

**SECT. 4.** Each House may, during its session, punish by fine, not exceeding one thousand dollars, and imprisonment not exceeding the duration of that session, any person misbehaving in presence of such House and obstructing its proceedings, or abusing or threatening any member or members for any thing said or done as such.

**SECT. 5.** Neither House without permission, by law, shall have power to appoint any committee to sit when the Legislature is not in session, nor then elsewhere than at the seat of Government, and no member shall be paid but for service rendered while in actual session at the seat of Government.

**SECT. 6.** No bill for private, local or incorporating purpose, shall become a law, unless read throughout three times, on three distinct weeks during public sessions of both Houses, and shall after its first reading, by direction of the presiding officer of the House in which such bill originates, be published by printed advertisements before it receives a second reading, daily if there be a daily newspaper, if not, as often as possible, during at least one week in the city, town, county, and as near as may be in the immediate neighborhood where it is to have effect.

**SECT. 7.** No law shall be enacted granting any perpetuity or monopoly for private purpose, or any lottery. No money shall be drawn from the Treasury but by distinct and specific appropriation by law. No bill appropriating public money to private purpose shall become a law, without a vote of two thirds of the members present in both Houses, and such vote taken by ayes and noes entered in the journal. No bill creating, continuing, renewing, or supplying any body politic or corporate, (except religious, charitable and literary bodies,) shall become a law but by a vote of two thirds of the members of two successive Legislatures, and the succeeding Legislature shall not have power in any respect to change such law, as passed by the first Legislature. On the final passage of such bill in both Houses, it shall be the duty of the presiding officer of each, to direct the ayes and noes of the members present to be called and entered upon the journals as they vote; and no such bill, if returned with objections by the Governor, shall become a law during that session of the Legislature, nor afterwards, without the concurrent votes of five sixths of the members present, taken aloud and entered on the journals.

**SECT. 8.** The Legislature shall provide by law for the prompt and universal promulgation of all laws as enacted, taking care that printed copies of them shall be published as soon as they are laws, in all parts of the State, by means of the periodical press, immediately, and in books as soon as convenient, and once in ten years a complete digest of all the laws of the State shall be prepared and published pursuant to law, collating with them all legislative, executive and judicial constructions of the laws.

**SECT. 9.** It shall be the duty of every judge and court of justice, adjudicating any principle of the common or unwritten law, for the first time that such principle is adjudicated in this State, to report the same to the Legislature at the next session, by whom a law shall then be enacted declaratory of such principle of the common or unwritten law, otherwise it shall not be a law thereafter, and the Legislature shall prescribe adequate penalties to ensure judicial compliance with the provision, so that no law may be first made by judicial construction alone without sanction of the Legislature.

**SECT. 10.** All by-laws and enactments of municipal corporations, shall be reported to the Legislature on the first day of their session, in order that such proceedings may thereupon take place as the Legislature may deem proper, if any, confirming, repealing, or altering the same, and no

such by-laws or enactments shall be valid for more than one year, if repealed by the Legislature.

**SECT. 11.** The title of every law shall distinctly announce its enactments, and no bill after it has passed one House shall be amended in the other by incorporating therewith distinct or dissimilar subjects, nor shall any private corporation or other than public objects, be at any time made part of a bill for public objects. And it shall be the duty of the Governor to return to the Legislature, with his objections, all bills in his opinion contravening this provision.

**Mr. INGERSOLL** moved that the resolution be laid on the table, and printed.

The **PRESIDENT** stated that, under a rule adopted by the Convention, several parts of this resolution would at once be referred.

Such parts as come within the operation of the rule were then referred, and the residue of the resolution was laid on the table.

**Mr. MANN**, of Montgomery, presented the following resolutions, which were laid on the table, and ordered to be printed :

*Resolved*, That the committee on the ninth article of the Constitution be instructed to consider the expediency of so amending the sixth section, so that in all cases of trial by jury (except capital punishment,) it shall be competent for two thirds or three fourths to give a verdict.

*Resolved*, That the committee on the fifth article of the Constitution be instructed to enquire into the expediency of so amending the Constitution that in all counties of this Commonwealth, where there is a considerable number of the population German, no person shall be eligible to the office of Prothonotary, Register, Recorder, Clerk of the Sessions or Orphans' Court, unless such person speaks both the English and German language, and that at least one of the Associate Judges possess the same qualification.

**Mr. STEVENS**, of Adams, said he had a resolution in his hand, not quite so long as that presented by the gentleman from Philadelphia, (**Mr. INGERSOLL**) but which would go quite as far to protect the people against the encroachments of the aristocracy. He then submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the fourth section of the second article of the Constitution shall be so amended that no city or county shall ever have more than six Representatives, nor more than two Senators.

**Mr. FLEMING**, of Lycoming, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That the committee on the second article of the Constitution be instructed to enquire into the expediency of providing for the election of a Lieutenant Governor of this Commonwealth, to be elected at the same time, and for the same term as the Governor. In case of the impeachment, removal from office, death, resignation, &c., of the Governor, the duties of the office to devolve upon the Lieutenant Governor, to be President of the Senate, and to have a casting vote therein. And further to provide, that if during the vacancy of the office of Governor, the Lieutenant Governor shall be impeached, die or resign, that the President of the Senate shall act as Governor until the vacancy shall be filled.

**Mr. KEIM**, of Berks, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That the committee on the ninth article of the Constitution be instructed to consider the expediency of so amending the Constitution, as to allow for ever, in this State, the free exercise and enjoyment of religious profession and worship, to all mankind; but that the liberty of conscience hereby secured, shall not be so construed, as to

excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

Mr. CURLL, of Armstrong, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That the legislative power, relative to the incorporation of banking companies, shall be so restricted that no charter shall be granted for a longer time than ten years, nor any note of a less denomination than twenty dollars issued ; and that the books, papers and vouchers of every banking institution, shall be subject to the inspection and supervision of the Legislature, who, if they discover that any bank has departed from the business for which it was created, shall forthwith declare the charter null and void, and the real and personal estates of the stockholders, both in their corporate and individual capacity, shall be liable for the payment of the notes in circulation, or in the hands of the people.

Mr. HASTINGS, of Jefferson, presented the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the committee on the sixth article of the Constitution be instructed to report the following amendment to that article, to be inserted after the first section, and numbered "2".

2. The Canal Commissioners shall be elected by the citizens of this Commonwealth, at the same time and place where they shall respectively vote for Representatives. At the first general election, after the adoption of this Constitution, one shall be elected to serve for the term of one year ; one shall be elected to serve for the term of two years ; and one shall be elected to serve for the term of three years ; and annually thereafter, one shall be elected to serve for the term of three years : *Provided*, That no person shall be eligible to that office for a longer period than three years in any term of six years.

3. The Canal Commissioners shall be vested with the same powers, and receive the same pay, they are now entitled to receive by law.

Mr. DENNY, from the committee to whom was referred the first article of the Constitution, made the following report, which was ordered to be laid on the table, and printed.

That it is expedient to amend the second section of said article, as follows :

"SECT. II. The Representatives shall be chosen annually, by the citizens of the city of Philadelphia, and of each county, respectively, on the fourth Tuesday of October".

Mr. PURVIANCE, of Butler, moved that the Convention proceed to consider, as in committee of the whole, the report made on Friday, on the first article of the Constitution, but withdrew the motion at the request of Mr. EARLE.

On motion of Mr. EARLE, the Convention took up for consideration the resolution offered by Mr. FULLER, of Fayette, appointing nine o'clock hereafter to be the daily hour of meeting. The resolution was read a second time, and agreed to.

Mr. BROWN, of Northampton, submitted a motion to reconsider the vote of Thursday last, adopting the resolution to authorize the purchase of 2,700 copies of the Daily Chronicle.

Mr. JENKS trusted the Convention would not agree to this motion. He took it, it was too late to reconsider this subject, and annul the contract, without doing great injustice to the individual who published this paper—as he understood the expense which that gentleman had incurred

nted to something like \$3,000. The editor had employed several symen, many of them being employed to come from Philadelphia, purchased a large quantity of paper, and was at this time in Philadelphia, and had, perhaps, purchased a power press to enable him to his engagements with the Convention. It appeared to him, the distribution of this paper was the very best means which be desired of spreading before the people that information it was so desirable should go to them, to wit, the proceed- of this Convention. It must be kept in view, that whatever lments this Convention shall make to the Constitution, the e will hereafter be called upon to adopt or reject them; and this, which they had adopted of spreading information before the people, give them an opportunity of examining all the arguments for and it every proposition which may come up for the consideration of onvention; and it will afford them time for deliberation and time to to correct conclusions upon every subject before they were called to vote. It appeared to him that the amount of money to be expend- this way would be judiciously expended, and gentlemen could not any propriety, on the ground of expense, object to the Convention; this paper, who voted for an additional Secretary to the Conven- In that case it was the opinion of many members that there was cessity for an additional Secretary, and that the expenditure of the at which he was to receive for his services was altogether unneces- but in the present instance the expenditure was of that character tends to disseminate general intelligence among the people, and them to act advisedly on questions in which they are deeply inte- . He trusted, therefore, the motion to reconsider would not be l to.

. Cox then moved that the further consideration of the motion to sider be postponed for the present. Mr. C. would, in a very few , give the reasons which induced him to make this motion. There a number of the members now absent, and certainly if there was a ition on the part of a few of the members of the Convention to e their opinions upon this subject, and thereby do manifest injustice e individual with whom this contract was made—such injustice as prehended, had never been done before under similar circumstances hoped they would at least be disposed to let the matter lie over until was a full attendance of members; and then they could see who and who were not disposed to do this injustice to the editor of the icle.

. STEVENS hoped a postponement of the subject would take place, en let a committee be appointed to ascertain the state of the facts in on to this case. At the time the resolution was introduced he felt reluctance at voting for so large a number, and had spoken to some members of the Convention, whether it would not be proper to e the number to two thousand. He was told, however, that twenty- hundred could be printed as cheap or very nearly as cheap as two and; and in consequence of this he finally voted for it, with some ance, believing that the expenditure was greater than was actually ary. But having voted for it in the middle of the last week, and rinter having gone on the faith of that contract, and made his ar-

rangements at a very great expenditure as he was informed, having employed a Stenographer and reporters at an expense of seventy dollars a week, independent of other expenditures, such as the purchase of paper and a new press, he could not, without feeling that he had done a rank injustice to this individual, and violated as solemn a contract as ever was entered into by any body of men, vote for a reconsideration of this question. It would have been needless for the editor of this paper to have made extensive arrangements until after he ascertained that the Convention would patronize him; and after this resolution was adopted it became necessary for him to make these arrangements; well, he presumed, it would hardly be expected by the intelligent delegates to this Convention that a mechanic could enter into so extensive arrangements, in a day or two, and have laid on the tables every morning full and correct reports of the proceedings of this Convention. If, however, after giving a reasonable time to this individual to comply with his contract, he might violate his part of it, then he should deem it to be right to take it from him and give it to some other person, or refuse to have any such paper at all.—The journal of the Legislature he believed, however, had never been laid on the tables so promptly, nor did he believe that the bills were ever printed and laid on the tables of members in so short a time as this paper had been. But how was it to be supposed that perfect arrangements could be made to conduct this paper in the course of two or three days. He believed it would be a cruel injustice, after this individual had gone to an expense of some two or three thousand dollars, to take this contract away from him, and although he voted for the resolution with some reluctance, he should consider it a violation of a contract to vote to re-consider it now, unless it should appear that the editor of the Chronicle had not fulfilled his part of the engagement he had entered into.

Mr. READ hoped the motion to postpone might not prevail. One of the arguments raised against this motion to reconsider, was, that there had already elapsed so much time from the passage of the resolution, as to subject the editor of this paper to a very considerable expense, in making preparations for carrying on this work. Now, if there was any thing in this argument, it was certainly a good argument why we should not further postpone this subject and allow this gentleman to go on adding to his expenses. It was certainly a good argument in favour of disposing of the question, one way or the other, in the shortest possible time.

When the Convention was about entering into this engagement, or at least when it was first brought to their notice, it was asserted by those who professed to know, and he believed it was stated by Mr. GUYER himself to many of the members of the Convention, that, if this contract was entered into, a full, and impartial record of our proceedings would be given in this paper. If such had been the case it might be some argument against disturbing this contract. But such was not the case, and he appealed to every member of the Convention, if the proceedings already had not been partial, garbled, and, in some instances, untrue. He called the attention of the Convention to what took place here on Friday last, between the gentleman from Somerset, (Mr. COX) and the gentleman from Northampton, (Mr. PORTER) in relation to the name of Mr. BUCHANAN being introduced in the debate. He would ask any member of the Convention whether the circumstance of this individual not having



his arrangements entirely completed, was any excuse for the garbled and untrue account of the proceedings which took place here. He would call the attention of the Convention to another case. The editor of this paper had proposed, in one of his numbers, to publish a copy of all resolutions presented by the members of the Convention indicative of their own peculiar notions. It was well known that the gentleman from Philadelphia county introduced the first resolution of this nature, and Mr. R. had introduced the second; and the editor of this print had published some four or five resolutions of this kind, but had taken no notice at all of the one presented by him (Mr. R). Now, he would ask any gentleman if the reasons urged by the gentleman from Adams (Mr. STEVENS) for the imperfect condition of this paper, was any excuse for this neglect, and these incorrect statements. If this editor affected to publish resolutions indicative of individual sentiment, was he not bound to give them in the order in which they were presented? Or was he justified in publishing a subsequent one, and leaving out the one preceding? Mr. R. apprehended not. If, then, the Convention had made this agreement on the pledge that they would have impartial, fair, and correct reports laid upon their tables, and it was seen already that these reports were not of that character, he apprehended the reconsideration and negation of this resolution would not be doing this individual that kind of injustice to which the gentleman from Somerset, (Mr. Cox) and the gentleman from Adams (Mr. STEVENS) referred. If he had failed in sundry particulars in doing what he agreed to do; and if he had violated the contract on his part, where was the injustice of reconsidering and negating the original resolution? These were his views on the subject, and he had stated his reasons for opposing a postponement of the subject, hoping the subject might be disposed of, one way or the other, as speedily as possible. If they desired a publication of this description, there was a better mode of getting it than by the present paper. We have a Printer of the English debates who can publish all the matter any gentleman might desire to have published, and ten times more than can be copied into the country newspapers: There was, originally, no necessity for this contract, and a failure to perform his part of it on the part of the printer, seemed to him to be a sufficient reason why we should now reconsider and negative the resolution.

Mr. BROWN, of Philadelphia, said the introduction of this proposition placed him in a somewhat peculiar situation, and he begged leave to say a few words on the subject in explanation. Having been requested by the editor of this paper to bring his name before the Convention fairly, he did so, and did so upon his pledge of honor, that the proceedings of the Convention should be fairly and impartially reported. He deemed it however his duty to say, and he said it with feelings of mortification, that the editor of this print had not complied with his engagements, in the manner he authorized him (Mr. B.) to say he would comply with them. Mr. B. mentioned this fact at this time because he had the last number of the paper before him, and if he did not see his name in it, he should not have known that he took any part in the proceedings of last Friday, at all. Independent of this, the whole proceedings were made to appear without the least connexion, as one gentleman was made to reply to arguments of a gentleman who preceded him, and upon reference to the preceding

speech there was no where to be found any such arguments in it. The gentleman from Northampton, (Mr. PORTER) is also made to call the gentleman from Somerset, (Mr. Cox) to account, because of certain remarks made in relation to Mr. BUCHANAN, yet upon reference to the speech of the gentleman from Somerset, as it appears in that paper, there is not a word about Mr. BUCHANAN in it. Mr. B. was also made, in several instances, to reply to what did not appear in the speech of the gentleman to whom he replied; and he was made to reply particularly to the remarks of the gentleman from Somerset, (Mr. Cox). Now, Mr. B. did not wish to be understood as replying to the remarks of the gentleman from Somerset, any more than to those of any other gentleman. The editor of this paper had also authorized Mr. B. to say, 'that the remarks of gentlemen would be handed to them for revision before publication, so that they might see that they would not be misrepresented, yet he had not seen, nor did he know, that any other gentleman had seen any portion of this journal previous to its publication. He was, therefore, of the opinion with the gentleman from Adams, (Mr. STEVENS) that a committee should be appointed for the purpose of ascertaining whether this editor was disposed to fulfil his contract faithfully. Mr. B. was disposed to carry out this contract faithfully, but he must insist upon the editor carrying out his part of it fairly, and faithfully also. It was important that we should have our remarks represented as fairly to the people as possible. It had been said, since we have been here, that we have not, on all occasions, conducted ourselves in the most unexceptionable manner, and he trusted we would not be presented to our constituents in a worse light than our doings here warranted. If this gentleman reports any thing, he must make it consistent, however brief; he must not put in a portion of a speech of a gentleman, replying to what he has left out of the speech to which it is a reply. This would be too absurd, and it would be better not to notice it at all. In reply to what had been said by the gentleman from Adams, (Mr. STEVENS) about the editor not having his arrangements completed, Mr. B. would say that he believed the first three or four numbers of this paper, which had been placed upon our desks, were much better arranged, came to us in much better order, and were in every respect more worthy the patronage of the Convention than what we have received since.

Mr. FORWARD, of Allegheny, said, when the resolution for the employment of Mr. GUYER, to publish sketches of debates, was under consideration, he opposed it and voted against it, and he did so for reasons which appeared to him at the time to be all sufficient. But the resolution having passed, he felt equally opposed to a reconsideration of it, and he should vote for a postponement to put an end to the matter. The Convention having passed the resolution employing him to print these debates, he would put it to gentlemen for their serious consideration, whether it did not justify Mr. Guyer in going on with his preparations to meet the expectations of the Convention. Mr. F. had understood that this gentleman had gone on to Philadelphia, and had made large expenditures in preparations to carry on this work. Well, was he not justified in making these expenditures? And would the faith of the Convention not be violated in reconsidering and negating this resolution? It was not understood, at the time the resolution passed, that this individual was fully prepared for

meeting the expectations of the Convention. It was said, at the time, that he would incur a heavy expenditure in carrying it on. It was not supposed, at the time, that he was to go on with the work immediately, in as complete a form as he expected to carry it on. It was necessary he should go to Philadelphia before he could be ready to fulfil all his engagements. If, however, there was any neglect of duty on his part, let us appoint a committee to enquire into the matter. Mr. F. had no objections to this course being pursued; and if there was any neglect of duty on the part of this individual, let the committee examine and report upon the subject, but he could not now vote for a reconsideration of the resolution for the purpose of repealing this engagement, because it would be a breach of contract and violation of faith, not to be justified. He had looked over the paper carefully, and did not think the debates had been set forth in their true character, but he understood it would be better done in future, and he did not expect it was possible, that a paper of this description, could be got up in a perfect form in the course of a few days. If the editor of this paper had not attended properly to his engagements, let a committee be appointed to enquire into the case, and when the committee reported, it would be time enough to act.

Mr. Cox would state another fact in relation to this matter. The editor of this paper had gone to Philadelphia on Friday, and had not yet returned, consequently, the number of the paper which has been published and laid upon our tables, contains matter which he could not have seen, and of which he could have had no knowledge, as he was not here when the debate occurred, nor has he been here since. If then, there is any thing wrong, that wrong was not to be laid upon his shoulders, because it was necessary for him to be away, and being away, he could not know what matter went into his paper. Mr. C. admitted that there was a great deal said here which did not appear in this paper, but it was not to be expected that all which was said and done in the Convention could be inserted in this sheet. But there were matters left out which might be of some importance. What Mr. C. had said about Mr. BUCHANAN, he saw was omitted, and he was sorry for it, because he then believed that what he said on that subject was true, and susceptible of the clearest proof. He had not spoken of it as a matter of which he was cognizant himself; but, upon inquiry, he was told there could be no doubt but it was true as he had represented it. But when the printer of this paper returned, Mr. C. had no doubt he would fulfil his engagements, and publish the debates as fairly and impartially as it would be possible for any gentleman to do, and he had no doubt but that he would submit the reports of any gentleman's remarks to him before they went to press, if he desired it. It would, however, be rank injustice to act on this subject now in his absence, and condemn him for that which he knows nothing about. Mr. C. was told that the editor of this paper had employed a Stenographer at eleven dollars a day; that he had employed a great many other hands; that he had gone to Philadelphia to purchase a press and paper, and was making every exertion to do justice to the Convention. He thought, therefore, it would be but fair that we should wait until his return, and see what was to be done after he was here in person.

Mr. BROWN, of Philadelphia, said he was authorized to say, that Mr. REIGART, one of the delegates in this Convention, had stated, at the mo-

ment when the gentleman from Somerset (Mr. Cox) was reiterating this charge against Mr. BUCHANAN, that it was false, and that he knew it to be false.

Mr. Cox said he had spoken to Mr. REIGART and some others, in relation to this matter, on Friday, after the adjournment, and he had learned from them that it was true that Mr. BUCHANAN had made use of such language. It was not, however, contained in the address delivered before the Washington Association, but that he actually made use of such expressions on some other occasion.

Mr. STEVENS remarked that the reporter had done a very discreet act in leaving out this part of the gentleman's remarks, and if it was for no other reason than this, he would pay the editor for continuing the paper a little longer. He thought the gentleman from Somerset (Mr. Cox) had in the first place, set this matter in a proper light. Why had it been brought up to day, when there were so many members absent? Did gentlemen wish to take up a subject of this kind, in which was involved a question so important as the violation of a contract, when there were but little more than half of the members of the Convention present. Why, sir, it is not to be expected by any body knowing any thing at all about the subject, that our debates here can be fully reported and inserted in this paper. Do gentlemen think that the eloquence of every gentleman we hear in this Hall, can be transferred in all its glowing beauty to the printed pages of a newspaper? Why, to suppose this, would be to suppose that the Stenographer should be gifted with the talents of all the gentlemen here, and God forbid that he should be so afflicted. When he took up this paper and saw compressed in about half a page, a speech which it took a gentleman almost a day to deliver, he admitted it was a shame, and did not know but that that gentleman had a right to complain.

Mr. Cox said it was true he should have liked to have inserted the part of his remarks before alluded to by himself, but he did not consider the whole speech of such importance that he had any particular desire to have it inserted in full.

Mr. STEVENS had not alluded to the speech of the gentleman from Somerset, but to the speech of the gentleman from Philadelphia.

Mr. BROWN said the complaint he had made was, that gentlemen were made to reply to arguments in preceding speeches, and in those speeches there were to be found no such arguments. He trusted he knew better than that all the arguments of gentlemen could be inserted in this paper, but the chain of argument he considered should not be broken, as he saw was frequently the case, and that one gentleman should not be made to reply to remarks of another gentleman, which remarks did not appear in the paper.

Mr. STEVENS said he understood the gentleman to have complained of an inconsistency in the remarks attributed to the gentleman from Northampton, (Mr. PORTER) and the gentleman from Somerset (Mr. Cox.)

Mr. BROWN explained. What he had said was, that the gentleman from Northampton (Mr. PORTER) had called to account the gentleman from Somerset (Mr. Cox) for remarks which did not appear in the speech of the gentleman from Somerset, and this placed these gentlemen's remarks in a very singular situation before the public.

Mr. STEVENS said when the gentleman was up before he had complain-

ed about his own remarks, but now he complained of injustice being done the gentleman from Somerset, and the gentleman from Northampton. Now, as Mr. S. viewed it, the gentleman from Northampton had justice done him, and by the subsequent remarks of the gentleman from Somerset, he thought justice was also done to him in this particular. Then the only injustice which seemed to be done was, that there was not sufficient of the text of the gentleman from Somerset to justify the commentary made by the gentleman from Philadelphia, (Mr. BROWN). Mr. S. saw by reference to this paper, that one of his own speeches was omitted, and one which he considered a beautiful speech, but it was not to be expected that justice could be done to our debates. He hoped the subject would be allowed to lie over for a few days until the editor returned, and then, perhaps, greater justice would be done to all.

Mr. EARLE, of Philadelphia, said gentlemen argued on this subject as though a regular contract had been entered into with this individual. As he understood it, the motion to reconsider could not be made after a certain time, and that no contract could be binding until that time expired. No individual could receive indemnity from the Legislature, if they reconsidered any vote making a contract with him within the time provided for by law, because of his rushing prematurely into the execution of the contract. This resolution originally was carried by a very meagre majority, and was carried in consequence of a statement being made which was contrary to the facts. This statement was, that Mr. PATTERSON was interested in the publication, and it since appears that this is not the case. But gentlemen say if we reconsider the vote on this resolution we will do injustice to the editor of the Chronicle. If the question to reconsider, prevails, and the question comes up whether injustice has been done or not, we can enquire into the matter and ascertain whether he has fulfilled his part of the contract, and if he has not, it will not be supposed that any injustice will be done. But if he has fulfilled his contract faithfully, and it appears to be inexpedient to continue the subscription to this paper, then we can discharge him from the contract and compensate him for his trouble, and expenses. When gentlemen propose to do injustice then is it time enough to charge them with it. In addition to the inaccuracies alluded to by different gentlemen he would mention another. One of his colleagues he observed was made to reply to the remarks of a gentleman whose speech followed his own. Besides this, the numbers of this paper came in such order that it was impossible for gentlemen to know to whom to send them. Instead of all the numbers being brought together, they were scattered along through the whole week so that it was necessary to keep a memorandum to know what we got. He would rather the printer would take a whole week and bring them in a proper condition. He should vote for the motion to reconsider with the hope that a committee would be appointed to have this matter investigated, and either have it more properly attended to, or have the contract annulled.

Mr. KERR, of Washington, hoped the motion to postpone would prevail. He had voted against the resolution authorizing the printing of this paper for the Convention, and he had done so with the belief that the circulation of so many copies of the daily Chronicle would not be worth to the people the amount of money it will require to pay for its publication. He regretted very much, at the time, that this resolution passed, and still



regretted it, but since the resolution has been passed by a majority of the Convention, and the contract entered into, he was not disposed to vote for a reconsideration of that vote. The editor of this paper had gone to a very great expense in preparing to execute this work promptly and faithfully, and were gentlemen prepared to reconsider this vote and leave this burthen upon his hands? He trusted not. He had very serious doubts as to the propriety of infringing the contract which has been made between the editor of this paper and the Convention. He also considered it improper to bring forward this motion at a time when there was very little over a quorum in the House. This of itself was a sufficient reason why the motion to postpone should prevail. He hoped it would prevail, so that gentlemen might have an opportunity of considering the question for a day or two.

Mr. MARTIN, of Philadelphia, said, when this question was before the Convention, at the time the resolution was adopted, they had information that the editor of this paper was not then prepared fully to discharge the duty imposed upon him; they were fully informed that it would require labour, time, and a large expenditure of money, before he would be able entirely to fulfil his engagements. Hence the Convention acted on the subject advisedly. Mr. M. had voted for this measure, and he should continue to vote for it, because he could see no possible reason why we should reconsider a vote on which we had all the information at the time we acted upon it, which has yet been obtained. As to the fault which had been found in relation to this paper, and the complaints which had been made, he had no idea that any man ever could or ever would be able to publish the proceedings and debates of any deliberative body, to the entire satisfaction of all, as there always would be some individuals who would not be pleased. He recollected having seen some accounts of complaints being made in relation to reporting in England, where they had much greater experience in those matters than we have in this country; and the complaint was, that the Reporters did not report every thing *verbatim*. Well, the Reporters set in to reporting *verbatim*, and the consequence was, that the speeches of gentlemen appeared so ridiculous, that they had to go round and request the Reporters to use their own discretion in the matter. Now, (said Mr. M.) this might be the case with myself, if I was to direct the Reporters to report me *verbatim*, and it might be the case with men of high qualifications and great eloquence. He was not willing, therefore, to find fault, but hoped they would be enabled to lay the proceedings of this Convention before the people, in the fairest and best manner possible, for their consideration and decision, and he imagined that no better means of disseminating information on this subject among the people could be obtained, than through the medium of this paper.

Mr. SMYTH, of Centre, said, when the original resolution was before the Convention, he had stated, on information he had received from a gentleman who had some knowledge of the matter, that the subscription to this paper would cost the Commonwealth a very considerable sum of money, for which the people would not receive an equivalent. This was his reason for voting against the resolution, and he had seen no cause to change his opinion since. But it had been stated that we could not now vote for a reconsideration of this resolution, without a violation of a



contract entered into with the editor of this paper. Now, in order to obviate this difficulty, he had drawn up a resolution which he desired to offer at a proper time, which was, in substance, as follows: "Whereas, it is evident from the manner in which the Daily Chronicle has been conducted, that the people of the Commonwealth cannot receive a benefit therefrom sufficient to warrant so large an expenditure: Therefore be it Resolved, That the Secretary of this Convention be instructed to address a note to the editor of the Chronicle, directing him to discontinue the printing of the same, and that the expenses which he has already incurred, be paid out of the contingent expenses of this Convention". He had understood that this work would cost the State from six to ten thousand dollars; and, if it was true that it was going to cost this sum, he considered it would be much better to pursue the course pointed out by this resolution, and save the expenditure of this large sum of money. He had voted against the resolution, and he should now vote against the motion to postpone, with the hope that the Convention might come to some understanding on the subject, and get rid of this engagement.

Mr. WOODWARD, of Luzerne, wished to do exact justice by every one, as well by the editor of this paper as his fellow members of the Convention. As to what he himself said, he cared very little about its appearing in print; but, when he listened as he did, on Friday, to any thing of very great importance, and came to look at the reports of those debates, he was very much disappointed. He thought, if editors attempted to give reports, they ought to give fair reports; and he did think these debates were unfair and very imperfect. It might be, that it was in consequence of the absence of the editor, and it was possible that when he returned, all cause of complaint would cease; and it might, perhaps, be premature in us to reconsider and rescind this resolution in his absence, and at a time when he was making preparations to prosecute the work. It seemed to him, however, that if the editor did not perform this contract in the manner in which it was understood by the delegates to the Convention, it would be proper to rescind the resolution. For the present, however, he merely wished to have the matter postponed until next week, so that they might have an opportunity of making some inquiries on the subject.

Mr. Cox then modified his motion by moving to postpone the subject till Tuesday, the 23d instant.

Mr. WOODWARD said this would give gentlemen an opportunity of making inquiries, and ascertaining whether the editor of this paper is willing and ready to fulfil his engagements, as he originally stipulated to do. If he found the editor ready and willing to fulfil his engagements, he should not vote to rescind this contract, but if he found that he was not willing to do so, then he would vote with the friends of this motion, to reconsider and rescind the resolution; and he did not apprehend there would be any violation of good faith in all this. If we were bound to continue the subscription to the paper, he was bound to give such reports as would be satisfactory. He recollected, that on the first week of the session of the Convention, numbers of this paper were laid on our desks, and the editor had taken occasion then to say, that they were much more imperfect than it was contemplated they should be in future. Well, now the fact was, that the reports of proceedings and debates, in those early numbers, were much more accurate and full than they had been since;

and so far from his improving, he was retrograding. But if, in the course of a week, he redeems his pledge, Mr. W. would still continue to patronize him, but if at the end of that time, it was found he was violating his agreement, he would vote to take the contract from him and give it to somebody else.

Mr. FLEMING, of Lycoming, trusted that if there was any alteration, or modification of the motion, it would be to postpone this matter indefinitely. And, he hoped that the time had arrived when they would settle, for ever, the manner of having the printing done. They ought certainly to come to a full understanding relative to the manner of conducting the printing of the Convention. He conceived that if the delegates were going to talk of the pounds, shillings, and pence, it was going to cost, it would be unnecessary to trouble themselves about any other subject. He had voted against the proposition of the gentleman from Northampton; raised his voice against it, and was satisfied with stating, at the time, that he believed it was not the best plan that could be adopted by the Convention but that it would be better to procure copies of the journal and the debates, in English and German, instead, and have them circulated among the people of the commonwealth.

That proposition was not then listened to for a moment. He had said that the different newspapers throughout the State would color and give a party tinge to the debates in printing them. That character had been given to the first number of the paper in question. Did gentlemen mean to say that they were not sufficiently conversant with the manner in which printing was done throughout the whole commonwealth as to be able to say *how* it would be done? He would not charge a single gentleman on that floor with being so short-sighted as that. They must, and ought to have been, fully conscious of the manner in which the proceedings of this Convention would be printed throughout the country. And, with a full knowledge of the character of the Daily Chronicle, he stated his opinion at the time, and voted against patronizing the Convention Journal. Well, as gentlemen had brought the burden upon themselves, he would say, that they were bound to sustain the paper. What! enter into a contract (for it was the same thing. Gentlemen had singular notions—they had induced Mr. GUYER, as stated by the gentleman from Allegheny, to go to a very large expense) and then turn round and make a different arrangement with another printer! He (Mr. FLEMING) would ask this economical delegation, whether they were going to pay the expense which Mr. GUYER had already incurred? Now, what would be the calculation of dollars and cents, as economy was the order of the day, for printing the proceedings of this Convention? Perhaps some gentleman would take it into his head that his speech was not correctly reported,—then, to gratify him, we must go to a third printer, and perhaps, then, fare no better. He thought that, from the various important subjects agitating the public mind at this moment, it was not improbable that the Convention would have their proceedings a little garbled, whatever printer they might select. They would have to take it in that shape, go where they would. It must be obvious, then, that if the matter was postponed till Friday next, that the printer would be in doubt as to the action of the Convention. Then, what was his situation? He did not know, nay, he could not tell, whether it was prudent or proper to employ persons to

take notes here, or whether to engage journeymen printers or not. He would be kept in a state of painful anxiety and uncertainty. He (Mr. FLEMING) hoped that the question would be taken on postponing the matter indefinitely. The matter should be put at rest, and they ought to have nothing more to do in relation to printing.

Mr. FULLER, of Greene, was opposed to postponing, because if that should be resolved on, in the meantime, there would be no reports published such as they desired to see. He was for having this matter settled one way or another at once. He thought, as some gentlemen did, that the contract on the part of the printer had not, as yet, been fulfilled, and that, therefore, the Convention were fully released from their obligation. They were now at perfect liberty to commence a new contract with Mr. GUYER, or any one else. The gentleman from the county of Philadelphia, had, prior to the adoption of the resolution, pledged himself as far as he could, from an interview with the editor, that a fair, accurate, and impartial account of the proceedings of this body should be published. Now, however, that gentleman had risen in his place, and confessed that he was disappointed. and that Mr. GUYER had not fulfilled his declarations. And, if the gentleman from Adams, (Mr. STEVENS) and the gentleman from Somerset, (Mr. Cox) admitted that the printer had forfeited his contract, he had no longer any claim on the Convention. He (Mr. FULLER) had voted against the resolution, because he believed that the benefits to be derived from the publication were not at all adequate to the expenses to be incurred. He still entertained this opinion. He did not think that the people of the Commonwealth of Pennsylvania would be benefited from the distribution of the Daily Chronicle. In almost every town in the State, there was a newspaper published, and the proceedings of the Convention would be copied into them from the journals already established here, and consequently they would have a much more general circulation among the citizens. When the proposition was first made, that the paper in question should be patronized by the Convention, and when, too, the question came up relative to printing and disseminating 1250 copies of the journal and the debates, it was thought by many delegates that the two latter would be sufficient without the newspaper to convey accurate information to the people. Now, then, if we were freed from the obligation into which we had entered, he would willingly vote for printing an additional number of the journal, and the debates.

With regard to what had been said concerning interference with vested rights, he would merely say, that he was as unwilling as any man could be to do that. But, as to vested right, the printer had entirely, he thought, put that out of the question. He hoped, therefore, that a decision would be come to at this time, as Mr. GUYER would be the better enabled to know what course to adopt.

Mr. DARLINGTON, of Chester, said it appeared to him that many gentlemen of the Convention were laboring under a misapprehension of the question. Now, what had we done? Why, we had entered into a contract with Mr. GUYER to supply us with a certain number of his daily paper, and we appointed a committee to attend to the publication and control of the paper. And now, we were asked to violate that contract, upon the complaints of individuals, and not the constituted organ of the Convention. Had we heard any complaints from the committee, or from any

individual member of it? No. For his own part, he did not know who composed the committee; and until we heard from some of those gentlemen as to Mr. GUYER's having violated his contract, it would seem to him to be, at least, an unnecessary interference, and could not be done without bringing upon the Convention the imputation of perfidy.

Now, he would vote most cheerfully for the motion of the gentleman from Somerset to postpone the question for a week. In the meantime we should have an opportunity of seeing whether Mr. GUYER was prepared to perform his part of the contract, as he would, before that time, have returned from Philadelphia. And, before that period would have arrived, too, we should see whether the committee had done their duty in superintending the publication of the paper. He was disposed to postpone this matter indefinitely, or indeed to go for anything short of violating the contract.

Mr. READ, of Susquehanna, remarked, that in answer to what had been said by the gentleman from Allegheny, some gentlemen had referred to him as a sort of text for their guide. Some gentlemen had put the engagement entered into with Mr. GUYER on the ground of a contract and vested right. He would maintain that if the Convention made a contract with an individual, and that contract was not violated by him, then the Convention could not release itself without the consent of the other party to the contract. So far he was willing to go with the gentleman from Allegheny. But, if, on the contrary, we had entered into a contract with an individual, and he had violated it, he (Mr. R.) was sure gentlemen would agree with him in saying that then the other party was not bound. No, he was not disposed to stand here and advocate the breaking of a solemn compact. The gentleman from Allegheny had said that it was understood at the time the contract was entered into, that Mr. GUYER was not then prepared to carry on the paper as he intended doing. Well, that might be a good excuse to a certain extent. But, if we could show that he had violated his contract, he (Mr. R.) would ask, was the Convention bound? He could refer to several cases, but would only do so to two in particular to show that his want of a Stenographer, and, besides, the want of his presence here, could be no excuse for his not giving full and impartial accounts of what took place here. The remarks made by the gentleman from Northampton last Friday, during the absence of Mr. GUYER, had been given in the Chronicle, in the most garbled and imperfect form possible. But, he would ask, was the printer's absence in Philadelphia any excuse for violating the contract on his part? Now, he did not care so much about speeches, and frequently they had better not have been published; but the resolutions offered in this body, were the deliberate sentiments of gentlemen, made up on full consideration and reflection, and sent out to the world. The printer required not the aid of a Stenographer in the publication of resolutions because they were written. Well, then, neither his absence—his notification that he was not prepared to do all that was expected of him—nor his want of Stenographers, would be any sufficient excuse, when he affects to publish the resolutions, which were offered previous to the date of the paper, and ought to have been printed in the next day's publication. It was no excuse for publishing the first, and omitting the second, publishing the third, and omitting the fourth, and publishing the fifth resolution. He maintained that Mr.

DICKER said that the gentleman who had just resumed his seat had said that the resolutions had not been published regularly. If the gentleman looked to the paper containing the proceedings of Thursday when Mr. GUYER was not then elected, he would find that the resolutions offered up to that time were published and perhaps, almost in order. The first resolution was that of Mr. INGERSOLL on the cur-  
rency. The second that of Mr. BROWN, the third that of Mr. PORTER, of Hampton, and the fourth that of Mr. READ. The gentleman would not be rather too particular, for although his resolution might not be in the order in which it was offered, yet it was published for the consideration of the Convention on the day on which it was read here.

DICKEY resumed, and read the names of those delegates who had resolutions. If he understood the nature of the contract entered in Mr. GUYER, it was, that he would not give every word that was said but that he would give a lengthened sketch of what took place in the Convention. And, he believed that Mr. G. had changed his Reporters, as to time, in order to give satisfaction. Whether he had succeeded the Convention would judge. He was, however, making preparations to carry into effect what he had promised. Whether the debates were given by the last Stenographer he had engaged, he knew not. He thought, that under all the circumstances, Mr. GUYER ought to be afforded an opportunity of carrying out his contract.

Convention then resumed the unfinished debate on the motion of **NLOP**, to postpone the motion of **Mr. PORTER**, of Northampton, Convention consider, as in committee of the whole, the resolution **PURVIANCE**, when

A gentleman from the city of Philadelphia has alluded to what I  
concerning the manner in which the present Constitution of Penn-  
sylvania was adopted, I desire the attention of the Convention to some  
questions in relation to that subject.

ressed the idea that the present Constitution was not the work of  
le, but was, in its very inception, the work of usurpation. I did  
erstand the gentleman as contradicting—as dissenting expressly  
y particular fact which I stated, but rather as maintaining argumen-

that my principal position was erroneous. He inferred that this motion was the work of the people, because the Convention which met it, after having agreed on most of its articles, adjourned for some time, and then met again, reconsidered, and adopted them. I have yet to learn that any formality proves it to have been the work of the people, and I yet to learn that any act of the British House of Lords, which con- firmed the aristocracy of the House of Commons, which does not



represent more than one fourth or one fifth of the British nation, must be considered as the act of the people of that nation, merely because it is entered into with all due consideration and formality. The facts stated by the gentleman show, that those who adopted the present Constitution, did so deliberately ; but they do not show that the people of Pennsylvania adopted it, or willed its adoption. You will recollect, sir, and the gentleman from the city of Philadelphia will recollect, perfectly well, that within the last twelve months, it was proposed, in the State of Maryland, to call a Convention to be elected by the people, for the purpose of submitting a new Constitution to the people of that State, for ratification or rejection. The Governor issued his proclamation, denouncing the act as rebellious, and threatening with punishment all who should engage in it, because the proceeding was not in the form prescribed by the Constitution of Maryland, for its amendment, and that the newspapers and political men agreeing in sentiment with the gentleman, took sides with the Governor of Maryland, and contended that any attempt to amend the Constitution, in any other than the mode pointed out by the existing Constitution of the State, ought to be treated as revolutionary and criminal. And I have no doubt the gentleman from the city of Philadelphia concurred in this opinion.

[Here Mr. HOPKINSON said that he had held no opinion on the subject, for he had not paid attention to it.]

Mr. EARLE resumed. I inferred his opinion from those which he has uniformly held, and which he holds now. I inferred that he would say now, that which he would have said on the same subject thirty years since. However, I hold that if the people of Maryland had gone on, they would have been justifiable. Any thing is good, in authority, that is ratified by the people—done by the people—clearly done by them. And any thing is usurpation, which is done contrary to the will and authority of the people. But, the people of Pennsylvania, by their Constitution—the democratic Constitution of '76, chiefly the work of BENJAMIN FRANKLIN, provided the manner in which it should be amended. In page 64, of the Book, entitled “Conventions of Pennsylvania”, I find in that Constitution the following provision :

“The said council of censors shall also have power to call a Convention, to meet within two years after their sitting, if there appear to them an absolute necessity of amending any article of the Constitution, which may be defective, explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people : but the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such Convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject”.

Here the people of Pennsylvania declared the manner in which they would amend their Constitution—that they would amend it through a council of censors, elected by themselves every seventh year—that they would hold in their own hands the power to check and control the council of censors, so that it could make nothing definitely without their approbation ; and that the council of censors having come to the conclusion



what amendments were necessary and proper, should publish them for the information of the people, and that, six months afterwards, delegates should be chosen by the people, to adopt or reject, in whole or in part, the amendments, in the very words proposed by the council of censors, so that the people might, at their pleasure, elect delegates, pledged to adopt, or pledged to reject, what had been proposed. After the old Constitution went into operation, there were parties, the same as existed in ancient Greece and Rome, the same which have existed in all other countries. These parties received names in Greece : the one was termed the democratic, and the other the aristocratic. They are parties inherent in human nature : they existed from the earliest records of history : they will perpetually exist, so long as truth and error continue to have a separate existence.

And it was not at all surprising that there should have been honest persons holding aristocratic principles, as well as those entertaining democratic,—as a Mahometan may be an honest man as well a Christian. Such individuals existed in this Commonwealth; they were dissatisfied, because the Constitution provided for rotation in office ; and they brought forward in the Legislature at an early period, propositions to change that democratic Constitution.

They had, however, told the people what were the alterations which they wished, and the people sent in petitions against them, showing so unequivocal a disapprobation of the project, as to cause its abandonment for that time.

At a subsequent period, a council of censors was appointed by the people, and they reported that the Constitution required no alteration. The party alluded to continued to do all in its power to bring about a change congenial to aristocratic principles ; and, despairing of success by other means, they undertook to establish a Constitution, otherwise than by the authority of the people—believing, with one of the framers of the Constitution of the United States, that the people were their own worst enemies—believing, with another, that the human race was always divided into two classes, the first, the rich and well born, the second, the mass of the people—(I speak the language of ALEXANDER HAMILTON)—that a popular government would not steadily pursue the public good, and that to secure it that good, the first class should be vested with a distinct and independent power or prerogative in the government.

Believing this, they have sometimes committed what are called pious frauds : they have thought the people a wild beast, that it was needful to keep chained, and that it was excusable to resort to deception and usurpation, on the ground that the end justifies the means. But, though done with a good intention, the morality of such acts is not my morality. The Constitutions of many countries have been frequently subverted, without the authority of the people. And we have seen books circulated in our own country, maintaining the doctrine, that the Legislature has the power to alter the Constitution. We have seen, that, in England and in Mexico, the Constitutions have been altered, without any ratification on the part of the people. A similar process was undertaken in 1789, with regard to the Constitution of this State—although, but one year was to elapse before the choice of the council of censors, for the legitimate change of the Constitution, if such were the people's will, yet the party alluded to having a majority in the Legislature, would not wait, but they proceeded to call

a Convention, in such a manner as to render it absolutely certain that it could not express the will of the people. It is true that the Convention met in the spring, as stated by the gentleman from the city of Philadelphia, and it is true that they requested the people to express their will, and then they adjourned over until September. And, it is true that they could not get the people to declare themselves for the proposed alteration of the Constitution. The gentleman has inferred that the people do not wish the Constitution changed at this time, because, although there was more than 13,000 majority for the Convention, there were 30 or 40,000 people who did not vote on the question. If this reasoning be good in the one case it is good in the other.

Let us apply it to the formation of the present Constitution. There was only one seventh of the people who could be induced, in 1789, to sign petitions in favor of a Convention. I beg leave to read you the protest of the minority, which will explain the matter fully. It is not very long. There was a protest adopted on each occasion: one on the resolutions in the spring, and one on those in the fall. I will read only the latter.

Reasons of dissent, p. 136, of Conventions of Pennsylvania.

“1st. Because we are of opinion that this House is not competent to the subject, &c. The good people of Pennsylvania have declared in the Constitution, the only mode in which they will exercise the right of a community to reform, alter, or abolish government, as being the manner most conducive to the public weal.

“2d. Because we are of opinion, that if this House were competent to the subject, they have not sufficient grounds for adopting this measure. It is clear to us that a majority of the good people of the State are averse to it. This House originated it from their own mere motion, without any application from their constituents, and invited the people to signify their assent. After an effort of several months, supported by the greatest exertion of legislative influence, and without any considerable interference to oppose them, this assent has been extorted from not more than about one seventh of the people, and this we are authorized to assert, from our own knowledge and the best information, was effected by the most deceptive means, and that in many instances, the petitioners supposed the object of the application to the House was the obtaining amendments to the federal Constitution, and the lowering of the taxes in this State. These reasons, so far as they are grounded on the small number of petitioners, are strengthened by the information given in this House from and of the most wealthy and populous parts of the State—that since the petitions were signed, great changes have taken place in the wishes of the people on this subject.

“3d. Because, when an attempt was lately made to effect the same measure, a majority of the good people of the State interposed, denying the right or power of their Representatives to interfere, and gave a most decided and unambiguous evidence of their attachment to the present Constitution”.

I will observe, that this protest, as well as the resolve calling a Convention, is dated the 15th of September, that the general election took place about the 13th of October, thus leaving about four weeks from the

time the resolutions were adopted, to the period when the delegates were elected. This is alluded to in reason 5th.

“5th. Because the time proposed to the people for electing members of the intended Convention, is too soon to admit of that general information and full consideration which so important a measure deserves. Sheriffs and Coroners have been months canvassing for their comparatively trifling offices; and, in a case of inconceivable importance to every member of the community, and their posterity, for ages, a knowledge of which should be carried to the doors of every house, but little more time is given, than is sufficient to ride to the doors of the county court houses in the State”.

Now, there was some tyranny in this. If they had given thirteen months' notice, instead of thirty days—although it would still have been an act of usurpation in the Legislature, it would, at least, have given the people an opportunity of knowing what amendments were proposed to be made, and what were the views of the candidates. I have no doubt that the old Constitution was susceptible of improvement, but the people were averse to making changes in their government, as they always are, for they would rather submit to evils existing, when sufferable, than make rash alterations, as is justly intimated in the Declaration of our Independence.

It would have taken away some of the odious features attending the call of the Convention of 1790, if that Convention had submitted its work to the people. But it did not do so. It promulgated the new Constitution by the solemn farce of a procession in the city of Philadelphia. It has been said on this floor, that the people were pleased with the acts of that Convention. But, I understand, from the member who is probably the eldest in this body, that the people were not satisfied with it—that they were dissatisfied that the Constitution was not submitted to the people for ratification. And, I have been told that an old gentleman, now living, has not voted since the adoption of the Constitution, because he considered it as having been an outrage upon the feelings and wishes of the people.

Those gentlemen who choose to look at the journal, about page 139, [Conventions of Pennsylvania] will be able to judge, whether or not there was usurpation. But, I will observe, that when the Legislature of Pennsylvania was petitioned, five or six years ago, to submit certain specific amendments to the people, that Legislature adopted, unanimously, a report declaring that they had no power to do so. If, under the present Constitution, they have no such power—a Constitution which provides no mode of amendment, how much more obvious is their want of power under the old Constitution, which had fixed the mode of amendment, by another form of proceeding.

I shall not now reply to the gentleman from Somerset, Mr. Cox, as fully as I intended to have done. He has assailed the delegates from Philadelphia county, because they come, in part, from the *suburbs*. Does this afford just cause of reproach? The inhabitants of the suburbs have generally been distinguished for their usefulness, their patriotism, and their love of liberty. It was those of the suburbs of Paris, who effected the celebrated revolution of the *trois jours*, by which the despotism of CHARLES the X. was overthrown. The inhabitants of the district which

I more immediately represent, the Northern Liberties of Philadelphia, a district where a majority of 1099 was given in favor of the call of this Convention, have long been noted for their love of freedom. That district has been called the "cradle of democracy", because, there, in the year '98, when a party was carrying things to extremes, the people manifested a most determined opposition to the laws then enacted for abridging the freedom of speech, and the liberty of the press. I trust that that gentleman, from Somerset, does not feel any dislike to the suburbs, because of this circumstance. He has also assailed the county of Philadelphia, because it is partly inhabited by mechanics and people connected with commerce, whilst he has passed eulogies upon the farming population of the interior. Perhaps, the gentleman is not aware that Philadelphia county contains a very large farming population, as large, perhaps, as the gentleman's own district, while the city of Philadelphia, which, with its principles and its delegation, he seems disposed to place in favorable contrast with the county, contains no farming population whatever.

The gentleman has said that this agitation of the subject, in the county of Philadelphia, grew out of the contest for the election of a Governor, in 1835—that it was a political manœuvre of the friends of one of the candidates. He is in error. The society which was most influential in effecting the call of this Convention, originated in Philadelphia county, three years before that election, and continued zealously to exert itself until its object was carried into effect. Nor is it a fact, that the advocacy of reform was confined to the supporters of Mr. MUILENBERG.

I recollect reading a newspaper published in the gentleman's own district, headed "Ritner and Reform", and the reform it advocated, was precisely such as the people of Philadelphia county advocate. Now, I should like to know whether these sentiments are more dangerous in Philadelphia county, than in Somerset or Cambria county? I was glad to see this support of sound doctrines, in a paper of the gentleman's own party and district, and I should not fear if the inhabitants of that district, being deliberately consulted, were permitted to decide what amendments should, and what should not be made to the Constitution.

The gentleman has alluded to frauds in elections, in the county of Philadelphia. He has told the truth. It is because we have been deprived of the right of suffrage, in the county of Philadelphia—because we have been cheated out of our votes, that we wish such alteration of the Constitution as will guard against such violations for the future. And, as a member of this Convention, I shall submit such amendments as will secure us against any such outrages hereafter. I trust that the gentleman will go with me in this measure. For, by such outrages, not only in the county of Philadelphia, deprived of her rights, in being misrepresented in the Legislature, but as she is seriously affected, so are other counties. Every county has an interest in this matter, and it is the interest of the county of Somerset, as much as any other, that we should be properly represented.

I think that it was not very fair that this should be urged as a reproach to the county of Philadelphia; for the people of the county were not the authors of the measure. What the gentleman has said about the carrying away of the ballot boxes was true. But those who performed this act were all inspectors of elections, not chosen by the people, but forced upon

the people of the county, against their will—forced upon them by the agency of members of Assembly, from other parts of the State. And, if there be any deserved censure about the matter, those men must take their share. In page 1363 of the legislative journal of 1835–6, I find that the rule, on motion of Mr. Cox, was dispensed with, for the purpose of proceeding to the third reading of the bill, to take away from the citizens of Philadelphia county the election of their inspectors. The right was taken away. Now, it is commonly found that great inventions have been given to them the names of their authors.

We will not call this Cox's Syrup; that would be a name not applicable to depriving people of the right of suffrage. There is something surgical about cutting individuals off from the body politic. We hear of the Caesarian operation; and, if the gentleman has no objection, we will call this the Coxonian operation.

An effort has been made to excite prejudice against the county of Philadelphia, which I cannot account for, in any other way, than by supposing that there being a numerical majority of one political party, in this Convention, there is to be an attempt made to excite party feelings in the breasts of certain members, and thus induce them to act, not according to the wishes of their constituents, but under the influence and dictation of the party.

For what other purpose are such allusions as that to the Senator in Congress (Mr. B.) thrown out here, than to elicit party feeling?—To induce the delegates of the counties of Allegheny, Beaver, Erie, Bradford, &c., which gave an aggregate vote of fifty to one in favor of the Convention, to vote here on questions of reform in the same way with the delegates of the city of Philadelphia, which gave two votes to one against the convention.

Great pains have been taken to prove that the people of the county of Philadelphia are opposed to reform. The fact is far otherwise. Both sets of candidates in that county were avowedly in favor of reform. The highest unsuccessful candidate was an active friend of reform in the Legislature for years. No man who avowed himself an opponent of the alteration of the Constitution would have ventured to run. If any candidate had so declared himself he would have lost the votes of his own party.

The story alluded to, by the gentlemen, that the friends of reform are in favor of electing judges by the people for the term of *six months*, and of reducing their salaries to 75 cents a day, is pure invention. Misrepresentation is always ripe, where the rights of the people are concerned. I beg the gentleman to believe that we do not hold more radical doctrines, in reference to the rate of salaries, and the terms of office of judges, than are held by the only two anti-masonic States in the Union—Vermont and Rhode Island. We are no more radical than the Anti-Masons of those States. We wish to fix the salaries of the judges at a reasonable sum, and their term of service at a proper length. The Convention lately held in Vermont, by the Anti-Masons to revise the Constitution of that State, left the term of service of the judges untouched—and the same was the result of the Rhode Island Convention. In Vermont, where the judges are elected annually, no difficulty is experienced in procuring suitable men to serve, with a salary of a thousand dollars a year. In Rhode Island, the late Mr. BURRILL, who was well known to the President of this body,



as one of the ablest men who ever held a seat in the national Senate, filled the office of Chief Justice of the Supreme Court of that State, for several years, with a salary of two hundred and fifty dollars. Mr. BURGESS, one of the most eminent men of the party to which the gentleman belongs, filled the same office, at the same salary. These points he stated to show that we can have able and independent men as judges, even if we elect them yearly, and allow them but small salaries; at the same time he would say, that he was not himself in favor of proposing to the people of Pennsylvania, so short a term, nor for so low a salary. Jefferson was in favor of the election of judges by the people, yet no member from Philadelphia held any ultra ideas in regard to the judiciary. While he (Mr. E.) was for a reasonable compensation, he believed that high salaries were one of the greatest curses that could ever befall a Republic. The elections cannot be free from corruption, when the salaries are high. To get rid of an extravagant government and its corruptions was one of the main objects of our fathers in adopting our republican institutions. If we are to have the pomp, pageantry and expense of a despotism, we gain little or nothing by a republican form. Hence, while we oppose extravagance, we are probably willing to give such a salary as will command the best service for the office. In this matter we would act on the same principle of common sense which is adopted in all private transactions. We would be willing to allow as large a salary as is equal to the average increase in private life of gentlemen having the requisite talent for the office. I hope the *democratic* Anti-Masons will go with us. We are told that we say too much about the rich and the poor. But we say nothing in regard to them, except when it is required of us by the nature of the discussion. We are not disposed to infringe upon the rights of the rich, because we support the privileges of the poor. We wish to afford protection to the persons of the poor, and to the property of the rich. In the first resolution which I offered, it is laid down as a principle that the property of the rich and the persons of the poor, are equally entitled to consideration. I support the motion before us, because I am anxious to come at once to the consideration of the Constitution, so that gentlemen who hold the doctrine may have an opportunity of proving that a long term of office is the best; that it will render liberty more secure and property more safe; and that it secures more uniformity and stability in the administration of justice. While the gentleman from Somerset proscribes us for holding the opinion that a short term will better secure these objects, I will ask him to tell me what was the tenure of office and mode of election in Athens, Lacedæmon, Rome, Carthage, &c. I will ask him whether he has studied the judicial system of any country of modern Europe, except England—whether he has well examined the system of Switzerland, the oldest Republican form of government existing. I will ask whether he has closely studied and compared the theory and operation of the judicial systems even of the States of this Union. If he can shew that when the people are chained down like wild beasts, then liberty and property are better preserved, than they can be by our system, then we will go with him; and, if he cannot, then we hope he will go with us; and with the only two Anti-Masonic States of this Union.

The Convention then adjourned.

TUESDAY, MAY 16, 1837.

Mr. BROWN, of Philadelphia, rose for the purpose of making a correction, not of the journals, but with a view to rectify any error in the debates. When the gentleman from Somerset (Mr. Cox) charged Mr. BUCHANAN, on Friday, with the utterance of certain language, he stated that he did not know that Mr. BUCHANAN was in the House, and partially retracted his expression. Yesterday, the gentleman reiterated the charge, and said that the truth of it would be sustained by a gentleman from Lancaster (Mr. REIGART.) That gentleman was now in his seat, and he (Mr. B.) desired to hear him on the subject. He wished now to ask that gentleman if the charge was true or false?

The CHAIR said it was not in order to take up the subject at this time, unless with the consent of the Convention.

Mr. REIGART said, he hoped the Convention would give him leave to make a statement. Pending the former discussion, he had made several efforts to obtain the floor. He moved to dispense with the rule.

Mr. DICKEY, of Beaver, asked for the ayes and noes.

Mr. REIGART then withdrew his motion.

Mr. LONG, of Lancaster, submitted the following resolutions, which were ordered to be laid on the table and printed.

*Resolved*, That the second section of the first article of the Constitution be so amended, that the annual election of state and county officers be held on the first Tuesday of September, in each year.

*Resolved*, That the tenth section of the fifth article of the Constitution be so modified, that the Legislature shall limit the number of Justices to be appointed for each district.

*Resolved*, That the first section of the third article be so amended, that any person convicted of an infamous crime, shall be disqualified from exercising the right of an elector, and that the same be further amended, so that young men, between the age of twenty-one and twenty-two, whose fathers are dead, but who, at the time of their death, were qualified voters, shall be entitled to vote without having been assessed or paid a tax.

Mr. BEDFORD, of Luzerne, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the committee on the third article of the Constitution be instructed to enquire into the expediency of so amending the said article, that every white male citizen, who shall have attained the age of twenty-one years, and shall have resided in this State, and for six months next preceding the election, in the county where he may offer his vote, shall be entitled to vote in the township or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, made elective by the people.

Mr. MAGEE, of Perry, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That a committee be appointed to enquire into the expediency of so amending the Constitution of Pennsylvania, as to prohibit the future emigration into the State of free persons of color, and fugitive slaves from other states or territories.

Mr. KONIGMACHER, of Lancaster, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the following amendments to the Constitution be made :

1. No member of the Legislature shall receive any civil appointment from the Governor and Senate, or from the Legislature, during the term for which he shall have been elected.

2. Any elector, who shall receive any gift or reward for his vote, in meat, drink, money or otherwise, shall suffer such punishment as the law shall direct, and any person who shall, directly or indirectly, give, promise, or bestow any such reward to be elected, shall thereby be rendered incapable, for two years, to serve in the office for which he was elected, and be subject to such other punishment as shall be directed by law.

3. And whereas, the ministers of the Gospel are, by their profession, dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the Gospel or priest of any denomination whatsoever, shall, at any time hereafter, under any pretence or description whatever, be eligible to or capable of holding any civil or military office or place within this State.

Mr. COCHRAN, of Lancaster, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved.* That the Constitution ought to be so amended, in the tenth section of the fifth article, as follows, viz: "That the Justices of the Peace in the several counties of this Commonwealth, the number to be apportioned by law, shall be appointed for a term of five years, by the Judges of the Court of Common Pleas, in the county in which they shall respectively reside".

Mr. M'CALL, of Washington, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved,* That the committee on the first article of the Constitution be instructed to enquire whether any, and if any, what restrictions may be proper or necessary on the powers of the Legislature, in authorizing the issuing licenses for the sale of ardent spirits.

Mr. CURLL, of Armstrong, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved,* That a special committee be appointed to enquire into the expediency of a provision in the Constitution, on the subject of erecting new counties.

Mr. STEVENS, from the committee to whom was referred the subjects of the Public Improvements, Public Loans, and the State Debt, made the following report, which was ordered to be laid on the table, and printed.

That they recommend the following amendment to the Constitution:

ARTICLE . The public debt of this Commonwealth shall never exceed the sum of thirty millions of dollars.

Mr. PURVIANCE, of Butler, said he had, a few days ago, submitted a resolution, which had given rise to a very protracted discussion, not very dissimilar to the case of the celebrated resolution of Mr. FOOTE, in the Senate of the United States. He had no idea, when he offered the resolution, that it would lead to such an extensive discussion. The object he had in view was to submit something for the consideration of the Convention, while the standing committees were engaged on the various subjects before them. Considering the arduous nature of their duties, he did not expect the reports from those committees in less time than two weeks, and lest the Convention should remain idle during that time, he had submitted the resolution. Yesterday, he had offered another motion, that the Convention would go into committee of the whole, on the report of the committee on the first article of the Constitution. He was anxious that the Convention should proceed to the consideration of that report, and, therefore, he would now withdraw his resolution, for the purpose of asking for the consideration of the report of the committee on the first article.

The PRESIDENT. It will require the consent of the seconder before the resolution can be withdrawn.

Mr. BROWN, of Philadelphia, who had soconded the resolution, rose to give his assent, if, previous to the withdrawal, Mr. REIGART might be permitted to answer the question concerning the charge against Mr. BUCHANAN.

While this subject was pending,

Mr. BELL, of Chester, asked leave to call up the following resolution offered by him a few days since.

*Resolved*, That the Secretaries cause to be printed 200 copies of a tabular abstract of the provisions of the Constitution of the United States, and the several states, on the plan of the table published in the third volume of the Encyclopedia Americana.

Mr. BELL stated, that the preparation of this statement would be attended with very little difficulty, because there was a similar table in the volume, which would require only a trifling amendment, by adding two or three states, and the two new states just admitted into the Union. He hoped the resolution would pass, because the abstract could be prepared by the Secretaries, with little trouble, and it would enable gentlemen to compare the Constitutions, and to see in what points they differ, and in what they concur. The possession of such a key would greatly facilitate the labors of the Convention.

Leave was then given, and the resolution was read a second time and agreed to.

Mr. REIGART then rose, and stated that he had desired to make an explanation on Friday, after the gentleman from Northampton (Mr. PORTER) had spoken, and had endeavored, without effect, to get the floor. During his absence yesterday, the subject had been again referred to. On the 4th of July, 1815, when he was quite a boy, Mr. BUCHANAN delivered an oration in Lancaster, before the Washington Association. In that oration there was nothing of the kind imputed to him, such as, if he thought he had a drop of democratic blood in his veins he would let it out. This was all he knew on the subject of that oration.

Mr. Cox, of Somerset, wished the gentleman to go further, as he (Mr. C.) would call on the other members of the Lancaster delegation. He should be able to prove, by living witnesses, that the language attributed to Mr. BUCHANAN, was used by him. He did not assert, and so he stated to the Convention yesterday, that the expression was used in the oration which had been named. He asked as to the fact.

Mr. REIGART would state all he knew. Every gentleman had seen the newspaper statements, charging Mr. BUCHANAN with having used the language imputed to him, but that gentleman had always denied it. He (Mr. R.) had seen anonymous newspaper paragraphs charging Mr. BUCHANAN with it, but it was denied by him. It was the common report, at Lancaster, that he had used the expression.

Mr. DUNLOP, of Franklin, called on the gentleman to state what Mr. BUCHANAN did say—if he did not abuse Mr. JEFFERSON, and the other leaders of the democratic party.

The PRESIDENT: Is the motion withdrawn?

Mr. BROWN: Yes.

Mr. Cox: I hope it is not withdrawn.

PRESIDENT: Is the motion withdrawn?

Mr. PURVIANCE: I cannot now retract. I have made the motion, and the gentleman from Philadelphia has concurred.

Mr. Cox : I rise to a question of order.

PRESIDENT : The motion is withdrawn.

Mr. Cox hoped the CHAIR would not decide without previously examining the rule. There had been the action of the body on this resolution, and after the action of the Convention on it, the mover had no further control.

The PRESIDENT stated the rule to be, that a motion might be withdrawn before there had been any amendment, or any decision upon it. It may therefore be withdrawn.

Mr. Cox urged, that there had been a decision on the resolution, as it had gone over from day to day. By a vote of the Convention, it had been suspended from day to day, and this continuance involves a decision. He called on the late Speaker of the House to say, what has been the practice.

Mr. CUNNINGHAM, of Mercer, said, that the usual construction of the rule by him had been, that a motion, in circumstances similar to the present, could not be withdrawn. And the reason was, although, during the day after he had made his motion, it was in the power of the mover to withdraw it, yet if any motion had been made upon it, or an adjournment had taken place, the motion then became the property of the body, and was no longer subject to the control of the mover. His opinion now was, that this resolution could not be withdrawn.

Mr. STEVENS suggested as the proper mode, that the mover ask leave to withdraw the resolution.

Mr. MEREDITH, of Philadelphia, suggested, that as the rule went on to say, that if a motion were withdrawn before adjournment, it shall not appear on the journal ; the inference was, that it might be withdrawn after an adjournment. The rule itself, therefore, expressly proves what may be done in that case.

The PRESIDENT said, he felt no doubt in his own mind as to the construction which ought to be given to the rule. It was clear that the mover might withdraw a motion before decision or amendment upon it. It was out of the power of the CHAIR to add any thing to the rule, as it had been established by the Convention, or to take any thing out of it. He, therefore, decided that the motion was withdrawn.

Mr. BROWN explained, that the only reason of his hesitation to give his immediate assent to the withdrawal, was his wish to give Mr. REICART an opportunity to make his explanation.

Mr. Cox : It will be seen that his explanation does not sustain the gentleman from the county of Philadelphia.

The resolution was then withdrawn.

Mr. PURVIANCE then moved that the Convention proceed to the consideration of the report of the committee on the first article of the Constitution.

Mr. FULLER, of Fayette, asked if the committee had made a full report.

Mr. PURVIANCE replied that it was not full, but on various sections of the article.

Mr. DUNLAP, of Franklin, said he should be glad if, instead of considering this report, some one could be taken up, on which there had been no dissent in the committee. For instance, the report on the 8th article might be taken up. The first article was very important, and the commit-

tee has it still under consideration. The 8th article had been reported without dissension or amendment. If the Convention did not agree to take up the first, he would move to take up the 8th article.

Mr. PURVIANCE replied, that there had been no difference of opinion on the report made by the committee on the first article. It comprised 11 or 12 sections. He moved to proceed to the consideration of this report, because it was the first in order. There existed no difference of opinion in the committee concerning this report.

The question was then taken on the motion of Mr. PURVIANCE, and decided in the negative—ayes 39, noes 53.

Mr. DUNLOP moved that the Convention proceed to consider the report on the eighth article of the Constitution, which motion was agreed to—ayes 69.

[A short conversation took place as to the mode of proceeding, the result of which was an understanding, that the Convention should go into committee of the whole on the several reports, after the first reading, and that after a report was taken up for consideration in the Convention, no formal motion should be necessary to go into committee of the whole.]

#### EIGHTH ARTICLE.

The Convention then resolved itself into committee of the whole, on the report of the committee on the eighth article; Mr. CUNNINGHAM in the Chair.

The report of the committee is as follows:

#### ARTICLE VIII.—OF THE OATH OF OFFICE.

Members of the General Assembly, and all officers, Executive and Judicial, shall be bound, by oath or affirmation, to support the Constitution of the Commonwealth, and to perform the duties of their respective offices with fidelity.

Mr. M'SHERRY, of Adams, stated that he wished to inquire of the Chairman of the committee who reported this article, why they had not amended the article by directing that in the oath of office they should be sworn or affirmed, to support the Constitution of the United States as well as of this Commonwealth. He said by the 3d section of the 6th article of the Constitution of the United States it is provided "that the members of the several State Legislatures, and all Executive and Judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support the Constitution". He stated he would not now make a motion to amend, he only required information from the committee as to their views on the subject.

Mr. DICKEY, of Beaver, said that the committee on the 8th article of the Constitution, had unanimously agreed to report the article precisely in the words and terms of the Constitution of Pennsylvania. The Constitution, as read by the gentleman from Adams, required, that in addition to the oath to support the Constitution of the State, every member of a Legislature, when called on to swear that he will discharge his duties with fidelity, is also sworn to support the Constitution of the United States as well as that of his own State, this to be done under the authority of the Constitution of the United States. Now, that being the case, it had been deemed unnecessary, that any clause should be inserted with a view to render the clause more imperative. He regarded such an amendment to be totally unnecessary.



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Mr. DRYDEN moved to insert, "the words 'of the United States' in the Constitution", the words "of the United States".

Mr. INGERSOLL, of Philadelphia, said that he was in favor of the subject. It was a very important one, and he was in favor of it in relation to it. He asked for the yeas and nays.

Mr. RUSSELL, of Bedford, thought the amendment to the Constitution from Franklin unnecessary. The Constitution of the United States, requiring members to support the Constitution of the United States was not mount to any other, and the oath to support the Constitution of the United States to be administered to officers acting under the Constitution of the United States in addition to the oath required by this article, now proposed to be introduced into the Constitution of our State. The oath is in the Constitution, and would have to be administered separately, independently of that to support the Constitution of Pennsylvania.

Mr. RAY, of Chester, observed that the oath to support the Constitution of the United States, was the paramount law of the land, and he considered it as totally unnecessary to be inserted in the Constitution of this State, or even to its being carried into full effect. The members of the Legislature of the several States were bound by that Constitution, and were duty bound to swear, or affirm, that they would support the Constitution of the United States. If there were not such a provision in the Constitution of the United States, then, indeed, it would be highly desirable to insert it in our's; but, inasmuch as it was the supreme law of the land, the members of the State Legislatures should take an oath to support the Constitution of the United States, therefore, it was not necessary to make the enactment on the subject, and consequently, he should withdraw the amendment of the gentleman from Franklin.

Mr. NORTON said he hoped that the motion would be withdrawn, and he was in favor of the opinion of the committee.

Mr. FRANKLIN, of Franklin, said that the amendment which was proposed was good, and ought to be adopted. Although the Constitution of the United States does impose upon the officers of this Commonwealth the obligation of taking an oath, or affirmation, that they would support the Constitution of the State would not, in the least, be impaired by introducing into it a clause to re-affirm it, which, instead of being a new obligation, would give new vigor and strength to the obligation. If it was a question whether such an obligation could be imposed upon the officers of the Constitution of the United States on officers not exercising the powers of the Constitution of the United States, but exercising the powers delegated to them by their own Constitution for State purposes, then, he thought the safest way was to affirm it in our own Constitution. If done so, all doubt would be removed. There would be no opportunity left for civil. It is a part of the Constitution of the United States, and officers should take the oath to support the Constitution of the United States. He would say, then, in conclusion, that it was only an affirmation what was required by the Constitution, and it was a measure which might remove doubt, and at any rate, do no harm.

Mr. FRANKLIN, of Indiana, remarked that the gentleman last up had said that the amendment could do no harm. Now, he never did like any thing which was not proved to him. Unless it could be demonstrated to

him that it could do good, he would certainly vote against it. They were not called in Convention to legislate for the Union, nor to add strength to that bond of Union which is the Federal Constitution. We were all bound to do that, and every man that has ever held office in this State, at least, has had to take an oath to support the Constitution of the United States, and the State of Pennsylvania. We were bound to respect all laws and treaties made by Congress, for they were the supreme laws of the land. Why, then, if our obligations were complete, should we add to them? Did it ever enter into the heads of any individuals that, after laws had been passed incorporating companies, we could not make rules and regulations and by-laws for the government that the Legislature had provided for? He thought that there should be as great and as distinct a line drawn between the State government and the general government as possible, consistently with the obligations due from the former to the latter. He maintained that the amendment proposed had better not be introduced, as it was not at all necessary. It was improper for Pennsylvania, or any other State to be legislating directly, or indirectly for the Union. He therefore, hoped that the amendment would not prevail.

Mr. HOPKINSON, of Philadelphia, said that he was opposed to the amendment, as being wholly unnecessary. He should be decidedly opposed to making any alteration in the Constitution, unless a good and sufficient reason could be shown for the change. He assumed the position of the gentleman who had just taken his seat, that he would change nothing without he clearly saw that it could be made better. He could not agree to the insertion of this amendment, because it could do no harm. The Constitution had been in operation for fifty years; every part of it had been well understood; every part of it had met with the universal assent of the people; and, by introducing even a word, or a line, a new interpretation might be put upon it. The Constitution, as it was, he desired might continue and be the same, whilst Pennsylvania remained an independent State. No change in the State—no change in its government—no change in its condition, could ever acquit the citizen of his first and primary obligation, to support a republican form of government. But, though Heaven forbid, that he should look, or any other delegate should look, even at an immeasurable distance at the possibility of a dissolution of this great and happy Union—could any man say—could any man look so far into the bosom of futurity and say that it would never happen? We had seen awful threatenings already—although, for himself, he could say, that they had not shook his confidence in the Union. And, although he believed that the good sense, good feeling, and the interests of all parties would prevail, would be in favor of holding this Union together, as being calculated to promote their happiness, yet he would say to the people of Pennsylvania, that a time might come when there should be no Constitution of the United States, then why introduce an amendment of this kind, which would, in that event, require that a Convention should be called to get rid of it? Every man who knew his sense of obligation to the United States, would not need to be reminded of it. He therefore conceived it would be useless to insert it.

Mr. Cox, of Somerset, said that he entirely agreed with the gentleman from Indiana, (Mr. CLARKE) and the gentleman from Philadelphia, (Mr. HOPKINSON) that it might be as well not to introduce the proposed amend-

ment, as it could do no good. He thought that we ought not to make changes for the sake of making them. No one could deny that we were unstable beings, one day we wanted one thing, and another, another. The Constitution of this ancient Commonwealth had stood a long time, and nothing had, as yet, been said against the eighth article. We knew not what the future might bring forth, and should the proposed amendment be adopted, we might hereafter be under the necessity of calling a Convention to get rid of it. He should be happy to vote in favor of the amendment, if he could see that it would be of any service whatever. But, from what he knew of human nature and the disposition there was in man for change, he would most certainly go against it, and all others which were not absolutely necessary to secure to the people that which they deem to be justly due to them. He thought that it would be proper now that he should adduce some evidence to prove, if it were necessary, that we are in the habit of changing, and that the greatest men of our land, or at least, those who are looked upon as the greatest, have gone from one extreme to another. And, if great and distinguished men change their opinions and go from one extreme to another, it was not to be looked upon as strange if the people should change and run wild upon some subjects. In order to show what great changes had come over the minds of great and distinguished men, he would read a part of an oration delivered by a distinguished man of this State, for the purpose of showing what his views were in 1814, and to contrast them with those entertained by him at the present time. He thought it would be showing most conclusively, how the mind was given to change, and what might be the effect of the change proposed now to be made in the eighth article. He thought it would convince a large number of the reflecting members of the committee, that it was dangerous and improper to make any change in the eighth article of the Constitution, inasmuch as it was a mere question of expediency, and was not urged as a matter of necessity. He would read a part of the oration of the Hon. JAMES BUCHANAN, (who, he believed, was not then present) delivered before the Washington Association of Lancaster, a little more than twenty years ago. He would not read it all now, because he should have other important documents in a few days to bring forward in order to settle these vexed and disputed questions. He would then read what was considered by Mr. BUCHANAN himself, facts of very great importance, for the edification and instruction of many of the gentlemen of this committee who seemed to be altogether averse to enter into the Federal opinions of that and other gentlemen. He should begin with the following—

Mr. CHAMBERS, of Franklin: I call the gentleman to order. I ask the Chair whether it is pertinent to the question before the committee to read what the gentleman proposed?

Mr. COX: I think I am strictly in order in reading anything which goes to prove why the amendment ought not to be adopted. I am of opinion that it is a fair and legitimate argument. And, if I can show by reading the oration, that we are always changing, and, that it is dangerous to admit innovations, it seems to me that I am quite in order.

Mr. BANKS, of Millin, hoped that the gentleman from Somerset would excuse him for saying, that if any gentleman on this side of the house, of the party to whom he (Mr. B.) belonged, were to assail the reputation of

one connected with those on the opposite side, he certainly would call him to order. And, if gentlemen on the other side of the house, friends of the gentleman, (Mr. Cox) do not think proper to call him to order, he (Mr. B.) would know how to govern himself hereafter.

Mr. Cox did not make any attack on the character of the individual, but merely meant to show what were his views on former occasions and what they were now. He intended to do so for the purpose of showing that great men change their opinions. He did not know that it was out of order to do that, and especially as it was in the shape of an argument. And, he had yet to learn that because certain men had promulgated particular opinions, that they were to have any effect on this committee. He had, he repeated, yet to learn, however discreditable it might have been to be a Federalist, or not —

Mr. CHAMBERS: I call the gentleman to order.

The CHAIR would state, that any argument having reference to the matter before the Convention was in order. But, he would submit the question to the body, for them to say, whether arguments of *this* kind could be in order?

Mr. CHAMBERS: I understand the Chair puts the question to the body. I would, therefore, ask gentlemen whether they consider the gentleman from Somerset in order in taking up an oration delivered some years ago? It is a matter the Convention seem unwilling to hear.

Mr. Cox was really sorry that the gentleman from Franklin had thought proper to pursue the course he had done. That gentleman could not have forgotten that there had been a dispute that morning in relation to the language said to have been used by the distinguished individual referred to. He (Mr. C.) wished to have said something in respect to it, but if the committee should decide that he was not to proceed, why he should bow to the decision. This, however, was the first time, in what little experience he had had, that there had been any difficulty made when arguments had been introduced, when each might have some bearing either in committee, or before the House. It was right that he should shew why, in his opinion, the amendment of the gentleman from Franklin should not prevail, by shewing how mutable great men's minds are. He would conclude by observing that it was dangerous to meddle with that which was well enough.

Mr. CHAMBERS said, that, disguise it as he might, it was quite manifest that the gentleman from Somerset intends to introduce into the committee a discussion foreign to the question pending, and to bring on a debate—that it was his object and purpose to impute certain sentiments uttered on a particular occasion by a distinguished individual, who was not a member of the body, and was not here to defend himself. He (Mr. C.) conceived that such a course of proceeding was not to be tolerated by this body, and he therefore hoped that the question would be put, and the decision of the committee had upon it, whether so wide a latitude of debate was to be allowed.

Mr. CUMMIN, of Juniata, adverted, generally, to the political course pursued by Mr. BUCHANAN previous to, and during the late war with Great Britain, and maintained that he had rendered his country many valuable services, which entitled him to the respect and confidence of his fellow-citizens. He did not join those who met together at Hartford at the

moment when we were engaged in a contest with the greatest nation in the world. It was to be put down to his glory that he had changed his views, and what man should complain of his fellow man that he had turned from the error of his ways to do that which is lawful and right? Mr. C. was proceeding to condemn any attempt to impugn (Mr. B's.) want of consistency, as unjustifiable, when—

Mr. CHAMBERS called him to order. He hoped the Chair would now decide the question.

The CHAIR: The gentleman from Somerset was about to read from an oration of the Hon. JAMES BUCHANAN, when he was called to order by the gentleman from Franklin. The CHAIR would observe that it is not for him always to decide whether an argument is in order, and he would now submit the question to the committee for their decision. I would remark that, according to my idea of Parliamentary rule, no paper or book can be read, except by leave of the body. I recollect reading, either in the writings of Mr. MADISON, or of Mr. JEFFERSON, I don't know which, that it is not in order to read a book or paper that has not reference to the matter, or subject pending before the body, unless by leave of that body.

Mr. Cox said, that the opinions of Mr. JEFFERSON had been referred to by a gentleman yesterday, and he thought that there was nothing in the rules which had been adopted for the government of this Convention which prevented him from proceeding as he was about to do. He cared not what might be the practice in other bodies, as he presumed the members of the Convention were to be governed by their own rules. Was it not so?

The CHAIR: Am I to understand that the gentleman appeals?

Mr. Cox: No, Sir.

The CHAIR: Then, I say, it is not in order.

Mr. CUMMIN, of Juniata, said, he thought that every gentleman present ought to support the proposed amendment. We ought to use all the means put in our power to support the Constitution of the United States. From his early days he had done so as far as he understood it, and he was always ready to take oath to support the Constitution of the United States as well as that of Pennsylvania. He maintained that he had a right to show that Mr. BUCHANAN—

The CHAIR: The gentleman is out of order.

Mr. CUMMIN: I bow to the decision of the Chair. Well, then, all that I have got to say is—that I will support the amendment of the gentleman from Franklin.

Mr. BROWN, of Philadelphia said, that he was not inclined to coincide in the remarks which had fallen from the gentleman from the City of Philadelphia, (Mr. HOPKINSON) for there were some doubts hanging over his mind which he wished to have resolved. The Constitution of the United States requires that every officer shall take an oath to sustain it. But, how was that oath, he asked, to be brought before an assembly? Or what right had any State officer to propose such an oath, unless it was required by the Constitution, or laws of the State of Pennsylvania? What obligation was there on any officer to take it? How was it to come under the notice of the officer, unless incorporated in the laws or Constitution of the State? That was the difficulty which presented itself to his mind.



He perceived that it was incorporated in the Constitution of the State of New York. Another view taken by the gentleman seemed to him (Mr. B.) untenable, which was—that the Union might be dissolved and the State thrown back upon its original responsibility, and that a Convention would have to be called for the purpose of separating the oath to support the Constitution of the United States from the other oaths of office. Why the same contingency might render it necessary to free ourselves from the operation of the law providing for the election of members of Congress; and in reference to treaties which might be necessary for self defence, and which are required to be made “under the authority of the United States.” When that period should have arrived, it would be evident to every gentleman, that a Convention would have to be called under such a state of things in order to settle matters connected with the sovereignty of the State. Mr. B. in conclusion, observed that under the present aspect of the case, he should be disposed to vote for the amendment.

Mr. SERGEANT: The gentleman from the county of Philadelphia will find a resolution of his doubt, in the paragraph of the Constitution of the United States which immediately precedes the one he has referred to. By that paragraph, the Constitution of the United States, and the laws and treaties made in pursuance of it, are declared to be the supreme law of the land. The Constitution of the United States is the fundamental law, made by the whole people of the United States. And, being declared by them to be the supreme law of the land, it is, of course, so far as it contains any provision, paramount to any State Constitution, or any State law. Whatever, then, its requirements may be, those requirements must be complied with, and fulfilled. The Constitution of the United States declares, in the first paragraph, which has been referred to—that Senators and Representatives, and the members of State Legislatures, and all Executive and judicial officers, both of the United States, and of the several States, shall be bound by oath, or affirmation, to support this Constitution, but no religious test”, &c. &c. This provision of the Constitution of the United States, we know we can neither dispense with, nor strengthen. It is a law which operates by its own proper vigor, without any aid from any State Constitution, or State law. And, any act passed under the Constitution of the United States, or treaties made under it, are of the like efficacy. If, therefore, we shall attempt to introduce into the Constitution of Pennsylvania a provision, that officers of this State should not be bound by an oath to support the Constitution of the United States, such a provision in our Constitution, or in any of our laws, would be absolutely void, as being repugnant to the Constitution of the United States.

How do we stand in regard to the opposite case, that is, of making a provision in our State Constitution in affirmance of a provision in the Constitution of the United States? If we cannot alter that provision, it is evident that to affirm, or support it, is merely nugatory—that the same obligations exist already on our State officers, and we cannot make them stronger. I think, therefore, that we had better omit this amendment. It is, as has been remarked, of doubtful value. No one can say that it is of any use; and, especially, since it appears, that the same thing will be done, whether you introduce it in your Constitution, or whether you do not, until the Constitution of the United States shall be altered. But,

there is another difficulty : If this be the ground, which it belongs to the people of the United States, as a nation, to occupy, in their Constitution, then it belongs to them *exclusively*. And, in that point of view, your affirmance of the provision, which is merely in support of the Constitution of the United States, becomes positively objectionable, because the people of the United States, may think proper to alter the provision, and to say that no such oath shall be required. I do not say that they will, or that it is possible they will. But they may do it. Supposing, however, that they should ; then, sir, you have a requirement in your Constitution, which, by an alteration in the Constitution of the United States, becomes repugnant to it, and the Constitution of Pennsylvania is thus repealed by that very alteration. Now, is it worth our while, when we have so many serious matters to attend to, to introduce a clause which can be of no use in Pennsylvania, but which may be operated upon in the Constitution of the United States. But, sir, in addition to this—(and besides the reasons that have been assigned for not introducing this amendment, to all of which I assent,)—I have a sort of Constitutional objection, if I may say so, to multiplying promissory oaths. To increase the requirements of promissory oaths, that is, the number of things to be sworn to, is equivalent to the multiplication of oaths. To require them, when it is unnecessary and useless to do so, is still worse. I make no objection to the sanction of an oath binding our officers to their duty and the Constitution of Pennsylvania, for it has long existed. It is in the Constitution, and there let it stand. But, I repeat, that I am not for multiplying promissory oaths, by altering the article. I have never had much faith in the efficacy of official oaths. You understand the sanction of an oath when it is applied to a man who is giving his evidence, it is applied to matter of fact, he knows whether what he is saying is true, or whether it is false. There can be no evasion. The thing is all done in a short time, and while it is doing, the appeal that is made to his conscience has its effect. But, in a long career of official duty, does the obligation of an oath continue to be felt ? If a man be honest, he will do his duty : but if he be a dishonest and a bad man, it is a difficult thing to bind him by an oath. And, to require that such a man shall take an oath of this kind, would seem rather like laying a trap for his conscience. But that is not all. I object especially to the *multiplication of oaths*, which, in this form, at least have respect to things that are not matters of fact, but are matters of construction. In regard to the Constitution of the United States, much discussion has arisen from the earliest times to the present day. It has given rise to the most important questions, and questions about which the most eminent men have differed in opinion, and continue to differ, up to this moment.

When you bind a man, by the sanction of an oath, to observe the Constitution of the United States, (it may be proper, I make no objection to it) you bind him in form as to a matter of construction. I am not, on this account, for expunging of oaths. I object only to the needless multiplication of oaths. And, when it is said that this multiplication of oaths can do no harm, I am not persuaded that it is innocent. On the contrary, I believe that every oath which is required on no better ground than that it can do no *harm*, is positively injurious, it is trifling with the solemnity of so solemn an obligation, and tends to weaken its power, to require

it, if no good reason can be given why it should be applied.

Sir, under this Constitution of the United States, as long as the Constitution shall stand, it is true, that an oath must be taken, whether you have it in your Constitution, or not. Therefore, you can give no reason for introducing it in your Constitution. And if, at any time, it should be dispensed with by the Constitution of the United States, there will be still less reason for having it in the State Constitution. I beg not to be misunderstood in the remarks I have made, but hope that I shall be understood to mean nothing more than this: That I think an oath a serious and solemn thing—that if you would preserve its solemnity, you must not use it too often, nor carelessly, nor disrespectfully, therefore, I am against the amendment, because the oath ought not to be introduced, unless a good and clear reason can be given for its introduction.

Mr. INGERSOLL: I wish to know whether, when we are in committee of the whole, the yeas and nays can be called for.

The CHAIR said—Yes, if 20 delegates support the call.

Mr. INGERSOLL observed, that he had asked for the ayes and noes that he might vote without speaking. He thought that the best manner of making his mind known. He had no doubt, from what had been said, that there was a majority against the amendment of the gentleman from Franklin. Not only from what had fallen from the gentleman from the city, (Mr. SERGEANT) as well as from the gentleman from Indiana, (Mr. CLARKE) but for other reasons. For his own part, he should say “no” to that whole clause in the Constitution. What is an oath—a political oath? All that has been said against it, is true, but a great deal more is true. Every man who had read the history of England, at the periods of the several revolutions—the revolution, which ended with CROMWELL, and that which ended with WILLIAM III. knew that many conscientious men, like Chief Justice HALE, of the Common Pleas, were compelled to take conflicting oaths. Every man knew, for it was within our own recollection, that latterly in France, men of high character and truth, had been obliged to swear three, four, five and six conflicting oaths. Such grievous necessity ought not to exist. The greatest of all modern reformers—the man who had done most to reform Europe, had said with respect to PENN’s treaty, that it was the only treaty that was not sworn to, and was not foresworn. For, we know, that whenever it is expedient to put an end to a treaty, an oath is easily got rid of. He objected, therefore, not only to the proposed amendment, but to the whole article, as unnecessary to incorporate with the Constitution at all. What is any political oath? We knew that in England, from which country our impressions are derived, with colonial reverence, oaths are multiplied without number. It was only recently that test oaths of an onerous character were at last, with difficulty, repealed. At the period the Constitution of Pennsylvania was framed, when this article was incorporated with it, and, that in the Constitution of the United States, colonial habits prevailed which are gone by. We are told by high authority, not to swear at all. The gentleman who had just spoken, had alluded to the oath of witnesses. The witness swears to recollection of facts. An officer swears to his constitutional opinion; that was all. The witness may be prosecuted for perjury. But, for the political oath, there is no punishment. In the one case, the man swears to his opinion, In the other, he swears to the fact. In the one case, he is pun-

ishable if he forswears. In the other, there is no human sanction.

I, therefore, as at present advised, not only have no hesitation in voting against the amendment, but am ready to vote against the whole clause, unless some better reasons, than I have hitherto heard, shall be given in its support. The oath to support the Constitution is substituted for an oath of personal allegiance. We may swear allegiance to KING GEORGE or KING WILLIAM, but we can swear to support a Constitution, only as we understand it, which no two men understand alike. We swear to support what we consider to be the Constitution—no more. Political oaths are but the bastard issue of the English oath of fidelity and test oaths. They are of very little worth, and the precept, “swear not at all”, that is, except on occasions of great importance, ought to be applied to them. This whole thing proceeds from an excess of mere reverence for the usages of past times, which are not necessary in this age. We have seen mischievous results from them, and, as far as possible, should discountenance them.

Mr. M'SHERRY was satisfied, he said, that there was no necessity for this amendment, and he was opposed to any unnecessary amendments. He should vote against it, and he expressed the hope that the mover would withdraw it.

Mr. INGERSOLL withdrew the call for the yeas and nays

Mr. CHAMBERS, of Franklin, said, that in advocating the amendment, he was not influenced by a disposition to multiply oaths. Neither was there in him any love of change. There was not a man in this body who had less desire of it; and as an evidence of his sincerity, he would remind the committee, that he had not offered a single proposition for any change in this body. What was well enough, he was willing to let alone. But this amendment contemplated no change in regard to an officer of the State Government. By law, it was provided that he should take an oath to obey and support the Constitution, and it was proposed merely to super-add this provision to the same end. It did appear necessary to him that, in a State Constitution, it should be declared whether the oath should be taken, and to what extent the obligation reached, and not left to the discretion of the person who was to administer the oath. It should not be allowed, as it was in a Southern State, to abolish the oath to support the Constitution of the United States, while an oath of exclusive allegiance to the State of South Carolina was required. We wish to shew, on the face of the Constitution, that we owe an obligation to the United States, as well as to the State. In advocating such a provision, he proposed no change, and no new measure. It was nothing more than was done in some other states. The provision formed a part of the State Constitution of New York, and he believed, of that of several other states. The Constitution of Michigan provided an oath to support the Constitution of the United States, as well as of the State. This was not a matter of a questionable nature. It was not a thing which might do harm and could do no good. It was nothing more than the enforcement of an obligation which all acknowledged to be due to a part of the system of government, to which we were, in a manner, subordinate. There would be no impropriety, therefore, in shewing a State officer the whole extent of his obligation, in regard to both the Federal and State Governments.

As to the multiplication of oaths, he was opposed to it. It would have

a tendency to impair our respect for obligations which ought ever to be held sacred. But this provision would not increase the number of oaths. They remained the same. It was acknowledged that the oath to support the Constitution must be observed by every officer, the obligation having been imposed by a competent power. He would not agree with the gentleman from the city, (Mr. INGERSOLL) that we could dispense with all the oaths of office.

Mr. INGERSOLL here explained, that he had not said a word against official oaths, but only against political oaths.

Mr. CHAMBERS, in reply, remarked, that when a person entered upon an office, he was obliged to take an oath, not only to perform the duties of the office, but to support the charter which gives existence to that, and every other office in the Commonwealth. It was taken as a manifestation of respect for the instrument which lies at the foundation of the State Government, and was the evidence of what the existing Government was.

Mr. DUNLOP said, if he thought a large majority of the Convention differed from him in relation to this question, he would forbear to press it any further. But he would remark that he had not offered the proposition without much consideration, and a great deal more, perhaps, than some who had opposed it, had bestowed upon it. The proposition contemplated nothing more than giving an additional sanction to what was already required. When we were told that there is nothing in an official oath, and that, in fact, it was a kin to official treason, he could not subscribe to the doctrine. He thought it important that oaths should be required, especially, at a time when too many men were anxious to give such a construction to their duties as would fritter away all constitutional obligations. Too little respect was felt for the obligations assumed in relation to the Constitution. When we were told that political oaths were frivolous and of no account, he must consider it as an evidence, that too little respect was felt for any constitutional authority. We had been told, from high authority, that every man had a right to take his own view of the Constitution, and that every man must take the responsibility of supporting the Constitution and laws, as he understands them. It might be, that the gentlemen who opposed this amendment had so nice a sense of moral obligation that there would be no necessity for them to take an oath. But there were many, of whom it would be necessary to exact an oath to discharge their duties to the country and to support the Constitution. When a man takes the book, and solemnly pledges himself to support the Constitution of the United States and of the State, and calls on God to witness his solemn engagements, it could not be said that he was no more bound to perform those engagement than he was before. Let a man's opinions be what they will, if he takes a solemn oath to support the Constitution, he will feel himself impressed with the necessity of fulfilling the obligation thus assumed. Was there nothing in the history of the country which shews the necessity of requiring every man in office to support the Constitution of the United States? True they were bound to do it already, but the history of the country shewed that, in times of high party excitement, the obligation was disregarded, and the State officers were disposed to regard their duty to the States, in preference to that demanded of them to the general government. Nearly all the old States had, at some period,



been rebellious to the authority of the general government. Of late years, we had seen one State in open turbulent rebellion against the government, and it was found necessary to enact laws and adopt measures to enforce her obedience. To say, that the measure can do no harm, is not enough. If it would have a tendency to prevent such conflicts, between the States and the United States, as had heretofore agitated the Union, by impressing upon the minds of the people, a sense of their obligations to support the national government, it would do much positive good.

To say that the Union might return to its original chaos, was no argument against the proposition, for as long as it endured, we were bound to support it. It was true, that the Constitution provided that it, and the laws, made in pursuance of it, should be the supreme law of the land; but, did we not know that it had been held in our State that the laws of the United States were not supreme, and that we were not bound to obey them? At one time we were in open and direct collision with the federal authority. In a time of high political excitement, the same thing might occur again. In case it did, the officers of the State would be precluded by this clause, from saying that they were obliged to support the State, in opposition to the United States. We want a clause which shall preclude all cavil, and prevent any person from saying that he owes a paramount duty to the State, over the United States. He held, therefore, that the proposition to insert in the Constitution a direct and positive engagement to support the Constitution of the United States, was necessary and right. But, as the gentleman from the city had withdrawn the call for the yeas and nays, if, on division, there should appear to be a decided majority against it, he should not renew the call. If the committee thought it was unnecessary to rebuke the spirit which was rising up amongst us, that we owed exclusive obligation to the State, and none to the Union, he should not press the proposition.

Mr. STEVENS said, it would certainly be in very bad taste for him to take a part in the debate, after such a brilliant display as had been made on both sides of this question. But he had risen merely to say, that he was glad to see the indication of a determination, not only to refuse to multiply unnecessary oaths, but to carry out the principle and abolish useless and vicious ones. He had risen to request gentlemen to remember, on a future occasion, their virtuous abhorrence of oaths, and to act, as they no doubt would, on the principle which had here been so nobly and handsomely expressed. He hoped we should arrive at the time when a clause should be offered, providing that every frivolous, unnecessary and blasphemous oath should be forever suppressed in this moral State. He would then show this body a series of oaths of the most immoral tendency, rising to the number of fifty, and each one containing more than ninety distinct obligations. We were called upon to put the seal of our disapprobation upon a system which threatened to sap the foundations of morality and free government.

Mr. INGERSOLL said, that without knowing whether he was particularly referred to by the gentleman from Adams, and being neither Mason nor Anti-Mason, entirely uninformed as to both, and unconnected with either, he was ready to give the gentleman the right hand of friendship, or the *grip*, if that was the term, on this matter, and if that gentleman would vote for rational, temperate, and considerate reform, he (Mr. I.)

would join him in suppressing every useless, immoral and blasphemous oath. He accepted the gentleman's challenge in perfect good faith, and he might bear it in mind, throughout the whole session of the Convention. Mr. I was for nothing wild, visionary, or improper, but for just, wholesome and sound reform, and as willing, not only to give every facility for an investigation of abuses, if any exist, of which he complains, but he would vote with him in suppressing every oath which ought to be deemed useless, or tended to perjury.

The respectable gentleman before him, from Franklin, was mistaken, when he supposed that he (Mr. I.) was opposed to oaths of office, in all cases. There was an essential difference between an oath to discharge the duties of an office, and an oath to support a Constitution. No man swears to support an instrument, as he contends, but a government, and not an instrument. The only reason which can be given in favor of the oath to support the Constitution, is, that it is a substitute for the oath of allegiance. That was the true theory of the matter, and in that respect, he was not sure that there might not be some propriety in it. In case of treason, or of conflict with a foreign country, or between states or the United States, we are bound to support the government of the United States, which suggests additional argument against the political oath. To swear an officer to discharge his duties with fidelity is right. A judge is properly sworn to discharge the duties of his office. But this is totally different from an oath of allegiance.

Let us, said Mr. I., make a government, established on stronger foundations than political oaths—on the affections of the people. Let us make such a government as that every man in the State shall feel himself, and be a part of the government—a government to which every one will give his affections, and to which the people will be bound by ties stronger than oaths, ties which cannot be severed.

If we looked to the original frame of the government, we would find that it was simply a government of law founded upon the participation of the people. That was the principle of the government, our object is to rebuild it, and it, may be, improve the foundation. A government founded on fealty, on the form of an oath, is not one to which we should render homage. He felt doubts, as to the oath altogether; and, if he should not hear reasons for retaining it, which he had not yet heard, he should be disposed to dispense with it altogether. The spirit of change had been denounced. The spirit of change!—what is it? The greatest of all reformers is time, and the forms and usages, which, fifty or sixty years ago, were revered, are gone by; a new system from that adopted by our ancestors has grown up, and their sons have learned to found government in the affections of the people. If government was not thus founded, an oath was worth nothing; and, if nothing, he submitted that it was worse than nothing. If it was of no use, it was an abuse; and it had better be dispensed with altogether.

Mr. STEVENS hoped, he said, that it would not be supposed that he had spoken otherwise than sincerely, when he asked gentlemen to act out the whole of their professions. He assured the gentleman from Philadelphia, that he had entire confidence in his declaration, that he would carry out the principles which he had so eloquently sustained. He hoped, that they should be able to go to work at once. Whatever might be the success of

his propositions on the subject of these oaths, he should go for every reform in the Constitution which he should deem wholesome; and, to induce him to pursue this course, he wanted no pledges from any other quarter. But he would enter into any treaty of alliance, not of an improper nature, to get rid of this abuse. He would agree to submit the propositions of reform to the people, only on condition that a clause in relation to these oaths, and secret societies, should also be agreed to.

He would pledge himself upon honor that the people should have an opportunity to pass upon this question, before any other amendments should be made. That he would agree to and stand by. As far as his voice would go, he would recommend it to the people to reject all propositions of reform, until this had been submitted to them. He would hold all the rest as hostages for the grant of what was withheld. He knew there was a portion of the people, and they were neither few nor weak, who would hold back from all amendments, until this one, which was nearest to their hearts, had been obtained.

Mr. SCOTT said, that he, for one, had a set of opinions on this topic, deliberately formed, which he should act upon, unless they should be changed hereafter by some new light on the subject. The gentleman from Adams should have his aid, so far as the views of that gentleman coincided with that set of opinions. In his course on the subject, he would not be restrained by any fear that his opinions would be misconstrued by those whom he had the honor to represent. As to the other subjects which had been introduced, he entertained the same opinions which had been so ably expressed by the President of this body. He would be found voting in accordance with those opinions, and in opposition to the further multiplication of unnecessary oaths. He would call the attention of the committee to the fact, that of all this body assembled here, in performance of the highest duty known to the laws, not a single individual acted under the sanction of an oath. No subject had been before the people, for a long time, that had called forth so much popular interest. The Legislature had passed two acts in reference to the Convention. But not an individual had suggested that an oath was necessary, as a preliminary to the discharge of the duty. This body was required to reform the State Government and to present the people the frame of a Constitution for their acceptance or rejection. Could any office, he asked, be compared, in point of dignity and importance, with this? yet, here we were acting, without the formality of an oath. Oaths (said Mr. S.) were not of a republican origin. He used the term, not in the *ad captandum* sense, but in its actual sense; oaths, he repeated, were not republican. The coronation oath, from which the inaugural oath was taken, was a pledge from the sovereign to the people. It would be of no account here. Our security was found on the accountability of those who were placed in office. We had guards & checks against the abuse of power, not known in monarchical governments. The power of impeachment, brought the highest ministerial and judicial officers under our control, in case they overstepped the limits of their authority.

We have power in our hands, through the agency of the ballot box, of enforcing the accountability of our officers. We have, also, a further check in the power of impeachment. Guards and checks are within our grasp, which render it unnecessary to resort to the system of oaths which

is in use in monarchical governments. We are now endeavoring (said Mr. S.) to amend the Constitution of Pennsylvania, so that the power and prosperity of this Commonwealth may continue hereafter; not the power and prosperity of the United States, but the power and prosperity of Pennsylvania; that is the sole object which I propose to keep in view. I will attend to that alone, and leave the people of the United States to take care of themselves. Reference has been made to collisions which may possibly take place. Such have been, and such may occur again. I may be one of those who hold the opinion, that the government of the United States has not, at all times, been the father of the people of all the States. But, however that may be, I will keep a single eye to the Constitution of Pennsylvania, and to the welfare of the people of Pennsylvania, and I feel myself competent to perform this duty without calling in the sanction of an oath.

Mr. FORWARD: I should like to know from those who think so lightly of official oaths, what practical meaning they attach to those obligations? If I have not misunderstood them, they consider the force and sanctity of such oaths, to be weakened if not entirely neutralised by the circumstance that men disagree in their construction of the Constitution. But is not an officer bound by his oath to perform the duties of his office, according to the best of his knowledge and ability? Does any rule of law, of reason, or of religion, exact more than this? Is he laid under an obligation of infallibility? Certainly not. No one ever supposed that, by breaking an oath of office, he would be held morally accountable for a mistake in judgment. Such is not the meaning of the oath; and arguments, which assign this meaning to it, will find no support either in the Constitution of the United States, or of Pennsylvania, or any where else. Those instruments, like all other laws, may, in their application to particular subjects, occasion diversities of opinion, but this does not warrant the supposition, that their general meaning must be doubtful. I heard with real surprise the question put in this debate:—What is the Constitution of the United States?—a question which implies that it is so ambiguous, or contradictory, or otherwise unintelligible, that, in taking an oath to support it, an officer would be swearing in the dark. This, however, is a difficulty which, I believe, was never started by any candidate upon his induction into office, or never heard of until this debate. The Constitution of the United States is sufficiently plain to those who will read it, and the requirement of the oath which pledges the officer to its support, cannot be disregarded in practice, unless the officer is a dishonest man. It has been said that the time may come when the National Government will cease to exist, and an oath to support it become, in consequence, to be out of place. This, however, is a contingency which I feel myself bound to regard as impossible, and I cannot suffer it to have the least influence upon the course I may take upon this or any other question. The overthrow of the National Government is an event which I dare not contemplate, and to which it seems to me very injudicious to refer. I would not encourage any such painful forebodings, nor look forward to a time when there shall be no federal government, no union, no independent nation here. I am bound to suppose that the Constitution of the United States will endure, even if my fears could prompt a contrary supposition, I would still hold out the idea to others that it would live for-

ever. And, this is a strong reason with me for supporting the amendment offered by the gentleman from Franklin. Let the people of Pennsylvania be reminded, by the terms of their own compact, that there is a Constitution of the United States, which is paramount to all other constitutions and laws—that to this Constitution they owe undeviating allegiance and support, and that among their primary duties, is that of frowning down all attempts at nullification and rebellion. I wish to place this oath in our own Constitution, so that it may meet every eye that looks upon that instrument, and the people know that their officers, at the same time that they swear to support the State Government, acknowledge in a formal and solemn manner, their allegiance and duty to the whole union. The oath of office has been spoken of in this debate as an unmeaning ceremony, which is forgotten as soon as passed, and the evil of multiplying such oaths has been put forth as an argument against the adoption of this amendment. If, however, such reasoning is to exclude from our Constitution the oath to support the Constitution of the United States, it may as well exclude the oath already prescribed. The danger of multiplying oaths is not now in question, sir; whether this oath, to which we would give a place in our Constitution, be admitted there or not, it must be taken by all officers. It must be taken at the same time as the oath to support our State Constitution. The two oaths are but parts of the same obligation. We propose to blend them together in our fundamental law. A few words will do it, and the only objection to their insertion is that they are superfluous, inasmuch as they would require from the officer that only which is already enjoined in another instrument.

This places the objection upon the ground of mere inconvenience, which is clearly outweighed by the considerations offered in support of the amendment. The gentleman from Philadelphia county, (Mr. INGERSOLL,) seems to think that oaths of office are disregarded in practice, and should therefore be given up in theory. This is placing the question in a new light, and perhaps the true one. But if that gentleman is correct in his opinion, we ought to strike from the existing State Constitution the requisition of an oath to support that instrument. This no one proposes to do. That part of the oath of office, and it is but a *part*, is to be left where we find it. The gentleman from the county of Philadelphia, does not say that oaths of office are not sacred and obligatory upon the conscience, but that in practice they are useless. I was surprised to hear him say this. I admit, that for a violation of an official oath, you could not indict a man for perjury; but I would put it to the gentleman, whether all wilful misconduct, in a public officer, is not understood to be, what it is, in fact, a species of moral injury? Is not this the voice of all upright and honorable men? It is said that an officer is bound, without an oath, to do his duty, and it is thence inferred that an oath is useless. But to the natural obligation of duty it superadds a special obligation for a special purpose, and the officer is reminded, at all times, of the duty he owes to his country and to his own character. I am now speaking of the conscience of the person who takes the oath. If he has no conscience, I admit there is no need of an oath to bind him. If it were here, as it was in France, during the reign of Atheism, there would be an end of the question. But the people of this Commonwealth suppose men to be moral beings, who have consciences, and are susceptible of moral obligation. They treat



them as such. 'They exact an oath from their officers, supposing that it will not be unfelt, although the breach of it may not subject the officer to an indictment. Why do you put a witness upon oath, when you call upon him to tell the truth? Is it because you can indict him for false swearing, or is it because you suppose him to have a conscience which will be impressed with the sacredness of that obligation? Do you rely upon his dread of temporal punishment as a security against perjury, or upon his sense of accountability to that being to whom he appeals? The same principle obtains in the requirement of oaths of office. We take it for granted that men are accountable beings, and that a violation of such oaths cannot escape punishment. The oath to support the Constitution of the United States points out our duty to the Union. I would place it in our State Constitution, so as to remind every man who reads that Constitution, of the relation in which he stands to the general government, and every officer, of the liability and wickedness of all attempts to render our duty to the union incompatible with fidelity to the State Government.

Mr. BIDDLE, of Philadelphia, said: Mr. Chairman—We are now about to be called on, for the first time, to vote on a question involving a change in the Constitution, and I, for one, am in favor of abiding by that instrument under which we have enjoyed as much happiness and prosperity as ever fell to the lot of any community. There may be some instances in which alteration may not be mischievous, but it is incumbent on those who advocate an amendment to prove clearly that it will be an improvement. I entirely agree with the gentlemen who are opposed to a multiplication of oaths, believing they are productive, at best, of questionable advantage, and that, by unnecessary increasing their number, the reverence felt for their obligation is diminished. Of the different kinds of oaths, none are more exceptionable than prospective, promissory or speculative oaths—oaths which are dependent on matter of opinion, and whose obligation rests on construction. Two constructions have already been put on the oath in question. The gentleman from the city (Mr. INGERSOLL) has said, and truly said, that an oath to support the Constitution is one to support the Government, while the gentleman from Franklin (Mr. CHAMBERS) says it is an oath to support the instrument. If it be so, let me ask, what is the situation of many, perhaps of a majority of ourselves, who have taken the oath to support the Constitution? That instrument contains no provision for its amendment, and we who are now deliberating on changing it, are pledged by the highest obligation to its support.

Mr. CHAMBERS explained. When I spoke of the oath to support the Constitution, as referring to the instrument, it was, as an evidence of what the Government is—not that as a mere instrument it is to be adhered to, but as showing the existing Government to be in accordance with its provisions.

Mr. BIDDLE resumed. I am always happy to listen to any thing from a gentleman I hold in such high respect. Let me enquire what is the influence of these oaths? Are they revered? Are they not rather almost like Custom House oaths, which are proverbially a by-word and a reproach? But it is said that the history of these States has shown such oaths to be necessary, for the purpose of preserving the different

States in due subordination to the General Government:—that States have openly, and even by laws, resisted the rightful authority of the Union. Let me again enquire, were not oaths of office exacted, when these refractory movements in certain States took place? Certainly. For, they have existed since the adoption of the Federal Constitution. Then, sir, they have been tried, and experience has proved how little they have availed. Mr. Chairman, I yield to no one in my devotion to the Union—to our glorious Union, which will, I trust, be cherished and maintained, and long continue to bind us together as a great, happy, prosperous, and free people. But, sir, we must be bound together by something stronger than oaths of office—these will never prevail against the conflicts of passion, and the jarring interest which may, at times, shake our Government. It must be deeply rooted in the respect, the confidence, the affections of the people. Let these be lost, and parchment Constitutions and official oaths will prove of no avail. Sir, I shall vote against the amendment as unnecessary—as useless—as mischievous in its tendency.

Mr. J. R. CHANDLER, of Philadelphia, said he opposed the amendment because the Constitution of the United States required the oath to be taken, and not because he thought there was danger of destroying its obligatory influence. When a resolution was introduced here to invite clergymen to open the Convention with prayer, it was objected to by those who are most attentive to their religious duties in other places, and who are in the constant exercise of prayer, because they believed that it would not be listened to with becoming attention and solemnity. But such is not the fact. So as to the oaths. It was said there was no penalty of law sufficient, and oaths were broken. There was one instance of a public officer who wilfully violated his oath. The law could not touch him, but public odium tracked him to his den, and he died in infamy. The Vice President of the United States died a despised wretch. He congratulated the two parties on the other side on their union, as an anti-swearing society, combined to put down wantonness. He congratulated the new society on its leaders, and hoped they would be blessed in all their proceedings. He had only a word or two to add, concerning his own vote, when we have vowed a vow unto the Lord let us keep it.

Mr. MEREDITH considered that the provision of the Constitution of the United States, which required that this oath should be taken, was at present directly obligatory upon us; and with this view of the subject, he could not see why this part of the Constitution of the United States should be inserted on our Constitution, any more than any other part of it.

Mr. FORWARD said, there were other matters besides the matter of oaths common to both instruments, and if the gentleman's argument would hold good, he might also be in favor of striking out the bill of rights from our Constitution.

Mr. MEREDITH remarked, that what he had said was not in the manner of a controversy with any gentleman, but merely to give the reasons why he was opposed to the amendment. With regard to the bill of rights, there was no doubt something in it of importance, but perhaps, if the gentleman would examine the clauses to which he alludes, it would be found that the framers of the Constitution of the United States had copied

them from us, instead of our having copied them from the Constitution of the United States; or, if this was not the case, that both had obtained them from one common source. The bill of rights applied to the protection of the rights of individuals from encroachments under the State Constitution, and in this particular, it was necessary to retain it in our Constitution.

Mr. SERGEANT said this was a part of the subject on which he desired to be clearly understood. Although he had desired to say as little as possible, yet the remarks made by the gentleman from Allegheny, (Mr. FORWARD) had suggested to his mind the propriety of adding a few words more, in explanation; and he would take this occasion to say, that he did not believe there would be found any great difference of opinion between his learned friend from Allegheny and himself, when they came to compare sentiments fully. There was not, properly speaking, any bill of rights in the Constitution of the United States; but after the adoption of that instrument, there was a great diversity of opinions and much jealousy with regard to the powers granted to the government of the United States, and then certain amendments were proposed, in the shape of an express declaration of certain of the rights reserved to the people, and some of those amendments might have a controlling power over the legislation of the States. The Constitution of Pennsylvania, however, was a very different thing. The people of the State, possessed the whole sovereign power—excepting so far as they had parted with any portion of it to the Union.

In creating a government, of three great branches, legislative, executive, and judicial, it would be understood of course, if nothing were said to the contrary, that all the powers belonging to these heads, were conferred upon the government, and of course, that the aggregate of these powers was equal to the whole power of the people.

What was called the bill of rights, according to his understanding of it, was a declaration by the people of Pennsylvania, that there are rights which the people have reserved to themselves, and had not parted with to the government by any thing contained in the Constitution, either expressed or implied, and that there were points to which none of the powers conferred upon the government could be considered as applying, or if they did apply to them, it was only to the extent there laid down. This bill of rights is a restriction upon the delegation of powers. It will be perceived, then, that the principle of construction to be applied to the State Constitution, and that applied to the Constitution of the United States, would be, and are materially different. With regard to the Constitution of the United States, the construction is, that no power belongs to the government, but what is granted by the Constitution, in express terms, or by necessary implication; but, with regard to the State Constitution, it is considered that all power is granted, which is not withheld or reserved. What is withheld or reserved, appears, as that part of the instrument to which I have referred. The bill of rights is a part of the Constitution, and a material one too, though often regarded as a mere assertion of principles. It is in the nature of a proviso to the Constitution, as if, at the end of the Constitution, it were provided that such and such matters, as are hereafter mentioned, shall not be considered as a part of this Constitution, nor within the scope of the powers intended to be given. That

was what he understood to be the meaning of the bill of rights. Now, if it should so happen, that in the amendments to the Constitution of the United States, there were, in some points, a coincidence with provisions in that part of the Constitution of Pennsylvania, called the bill of rights, it might be a question, whether they did or did not apply to the same purpose and effect, in other words, whether the restrictions in the amendments were to be considered as applying only to the power of the government of the United States, or to the governments also of the States? And, until that question should be settled, it would be the part of prudence not to omit any restriction in the state bill of rights, merely, because one, in similar words, was found in the Constitution of the United States. Now, as to this matter of oaths, in relation to which he had been, innocently, the cause of considerable discussion, but he hoped not unprofitable discussion, he wished to say a few words, and he was particularly anxious to be rightly understood. He believed it was an universal sentiment among the members of the committee—it was a sentiment prevailing among all christian denominations, that, oaths should not be administered, unless on important occasions. They all held against idle and useless oaths. Indeed, we have a large class of our most respectable citizens, who take the language of the New Testament literally, when it says, “swear not at all”, and they refuse to swear in any case.

Now, Mr. S. did not hold to this doctrine, (though he respected the scruple of those who did,) he had no doubt of the legality of oaths on lawful occasions, but he believed every christian denomination held that unnecessary oaths were profane; that, if an individual took an unnecessary oath, it was profane, and that if a magistrate administered to an individual an oath which was extra judicial, he did wrong, as well as the individual taking such oath. He acknowledged it to be right, he acknowledged it to be proper, on all great and solemn occasions, that an oath should be taken—not only as a sanction, but as an acknowledgment of accountability; he should be sorry to see the President of the United States, whose inauguration was a ceremony of very great effect, ushered into office without an oath; he should be sorry to see him inaugurated into office without this public solemn acknowledgment; it would have a good influence, if not upon him who took the oath, at all events, upon those who witnessed the ceremony. He did not object to the clause as it stood in the Constitution, either of this State, or of the United States. What he objected to, was the unnecessary multiplication of oaths, or the unnecessary declaration that oaths must be taken; because, whatever was unnecessarily done, there must be doubt, at least in the mind, whether it was not wrongfully done. He was satisfied that there was in the minds of most persons a repugnance to the multiplication of oaths, and he was sure that their too great frequency entirely destroyed their efficacy.

He remembered, upon one occasion, on having arrived in a foreign country, a difficulty raised at a custom house in relation to some baggage; the custom house officer said all would be right enough if he would swear that the articles were all of the growth and manufacture of the United States. He told the officer that he did not know that fact, consequently, he could not swear. The officer, however, appeared to think that he was over nice, and that he might have sworn to it with all propriety, in his own language, as “a matter of form”. This was one instance, in which

the frequency and improper use of oaths had destroyed their value, and even worse. There were many others, he did not doubt, of a similar character, and it occurred to his mind that on such occasions, this appeal had better be dispensed with, than be stripped by abuse of its solemnity. He thought it improper that they should have an unnecessary multiplication of oaths.

The amendment of Mr. CHAMBERS was then disagreed to.—Ayes 25.

Mr. BROWN moved an amendment, to come in after the word “assembly” as follows, “shall take an oath or affirmation to perform their duties with fidelity, and in obedience to what they believe to be the will of their constituents”.

Mr. B. presumed the amendment, carried on its face the object he had in view. It was well known to the Convention that on the subject of the duty of the representative to obey the will of his constituents, antagonist views were entertained, both here and elsewhere. Mr. B. however, believed, that in a representative government, it was the duty of the representative to be governed by those who appointed him their representative. In the amendment he had not set down the manner in which the representative was to ascertain the will of his constituents, but left him to ascertain that, in a manner satisfactory to his own conscience. But, in whatever mode and manner he does ascertain it, when the will of his constituents is known to him, he was to be governed in his conduct by it, and not by his own notions of what their will was. He wished our government to be, in effect, what it was in theory; he wanted the voice of the people to be the law of the land. He wished to see the representative, when the people selected him to perform a certain specific duty, confine himself to the performance of that duty, and not, the moment he was in office, act upon a new rule, and take upon himself to determine what was for the interest of those he represented. We were told by the gentleman from Allegheny, that there was a principle in the conscience, of many men which might be reached by an oath. If this be true, and it cannot be reached without an oath, and we have had experience enough to show that this principle will not be reached without an oath, he was for placing an oath in this article, to reach the consciences of such men.

The amendment was then decided in the negative.—Ayes 13, noes not counted.

Mr. HIESTER, of Lancaster, moved to amend the report, by adding the following words:

“And they shall be required, further, respectively to declare that they have not been engaged, either as principal or second, in any manner whatsoever, in a duel, since the adoption of this amendment to the Constitution; and, in the event of any officer of this Commonwealth being engaged in a duel, in manner aforesaid, he shall thereby forfeit his office”.

The question being taken on this motion, it was decided in the negative.—Ayes 23.

Mr. EARLE, of Philadelphia, moved to amend the report by adding the following words:

“And without oppression, extortion, or unlawful exaction”.

Mr. EARLE: He desired, that every opportunity which offered itself, to introduce Constitutional checks on the practice of extortion.

The motion was then decided in the negative.

Mr. DARLINGTON, of Chester, moved to amend the report by adding the following words :

“ And no other oath, declaration or test, shall be required as a qualification for any office or public trust”.

The committee then rose, reported progress, and obtained leave to sit again to-morrow.

The Convention then adjourned.

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WEDNESDAY, MAY 17, 1837.

Mr. CUMMIN, of Juniata, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the committee on the sixth article of the Constitution be instructed to amend the second section of the said article, so that the freemen of this Commonwealth be armed and disciplined for its defence, and that the militia officers be appointed in such manner and for such time as shall be directed by law.

Mr. FARRELLY, of Crawford, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the committee on the ninth article of the Constitution be instructed to enquire into the expediency of striking out said article, and substituting therefor, the following : “ The powers not delegated by this Constitution, are retained by the people”.

Mr. CRUM, of Huntingdon, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the committee on the ninth article of the Constitution be instructed to enquire into the expediency of a Constitutional provision, requiring the observance of the Sabbath day.

Mr. WOODWARD, of Luzerne, submitted the following resolution :

*Resolved*, That the Secretaries of the Convention purchase one copy of Purdon's Digest, (Stroud's edition,) for each member of the Convention, and that the expense of the same be paid out of the contingent fund.

The resolution having been read, and the question being put on the second reading, it was ordered, on motion of Mr. DICKEY, that the question be taken by ayes and noes.

Mr. BROWN, of Philadelphia, stated, lest blame should be thrown on the committee, that the subject of this resolution has been under consideration before the committee, but that it had not been deemed expedient to make any report upon it.

Mr. STEVENS presumed the object of the gentleman from Beaver, in calling for the ayes and noes, was to shew whether any of the members of the last Legislature, who had received copies of this Digest, would be found voting for the resolution. Every member of the two Houses had received a copy.

Mr. DICKEY replied that this was one object. Another was to shew who would be found voting for the expenditure of money on useless objects. He could not discover any propriety in adopting this resolution, unless it could be shewn that the Convention had been sent here to digest the laws of Pennsylvania, instead of to form a fundamental law for the state.



Mr. WOODWARD said he had not intended to say a word on the subject. He had thought that no lawyer would oppose this resolution, the object of which was to obtain a work which would afford great assistance to the labors of the Convention, and without the aid of which he had felt himself greatly at a loss. He considered it necessary to have a digested view of the acts of the Legislature before the Convention; and many very important acts, which had passed within the last few years, were to be found in this Digest, and could not be so conveniently referred to in any other place. Many of the amendments which had been submitted, are calculated to exert great influence on some of these acts. He did not desire to go blindly to work, but wished to see how the land lay round him, before he shaped his course. The call for the ayes and noes should but deter him from voting for the work, and he hoped it would not deter any other member. On the ground of economy, it would be wise to purchase this book, for, to proceed without the light which it would afford, would subject the people to a much greater cost. If any member was not provided with the work, he ought to be; and he was sure there was no one among the people who would object to an expense which would have the effect of greatly facilitating the labors of the Convention.

Mr. DICKEY did not understand how the Digest of the laws of Pennsylvania could help the Convention. The gentleman said he could not get along without Stroud's edition of Purdon's Digest. What had the Convention to do with the Digest? The business it had to perform was with the fundamental law, to frame a Constitution. Any work which would throw a light on that subject he would willingly vote for. If this were a proposition to obtain the reports of the proceedings of the Convention of 1790, it would be deserving of support, but this Digest would be useless. He cared no more for the expense of the work than many others. Every lawyer should have a copy, but he should have it at his own expense.

Mr. REIGART, of Lancaster, said he would endeavor to shew that there was a connexion between the matter of the Digest and the business in the Convention, and consequently that there would be a propriety of obtaining the work. If this was a book which the Legislature ought to have, it was one which the Convention ought to have. If gentlemen would turn to the Digest they would find that there were numerous references to the Constitution, as well as to the laws of the State. The Convention could not get on understandingly without it. He agreed with the gentleman from Luzerne, that it was indispensable to a proper performance of the duties of the Convention. It exhibited the constructions given to every part of the Constitution, and there was, consequently, an intimate connexion between it and the business before this body. The expense was nothing, and he feared no blame from his constituents, when he placed his name on record in favor of the resolution.

Mr. DARLINGTON, of Chester, thought it entirely proper that members should be acquainted with the course of legislation, and the guards and checks which the Legislature had enacted. He did not himself feel prepared to act without the aid of this work.

Mr. COX, of Somerset, said, if there were any members of the Legislature here who had received the work, they did not want a copy, and would, of course, inform the Secretary, who would not procure it.

Mr. DICKEY said, he had one in his desk, at the service of any gentleman.

Mr. M'DOWELL, of Bucks, moved to amend the resolution by adding the words

“ And that, when this Convention adjourns, the books so purchased shall be placed in the State Library, for the use of the Legislature”.

Mr. HIESTER, of Lancaster, moved a further amendment to make the number of copies “ fifty”, which was accepted by the mover, as a modification of his amendment.

Mr. CLARKE, of Indiana, expressed a hope that this amendment would not prevail, because, if it did, the next Legislature would take the books and distribute them. We may as well (said he) do this ourselves. He had got along through the world so far without having recourse to popularity traps. He did not mean to say, the gentleman from Beaver, in calling for the ayes and noes, had intended to have recourse to one. We (continued Mr. C.) may as well have these books, and make them useful to our neighbors. In my time, I have got some copies of Smith's Laws, and other books; some of them were given me in the Legislature. But I have not one of all these at home. They have all been lent out among my neighbors, Justices of the Peace, and others of my fellow-citizens. And if I have this work, I shall take it home and use it in the same way, and this gives all the citizens an opportunity of knowing what the law is. I shall certainly vote for the resolution, without being deterred by the ayes and noes.

The question was then taken on the motion to amend, and decided in the negative.

The question was then taken on the resolution, and decided in the negative, as follows :

YEAS—Messrs. Ayres, Baldwin, Barclay, Barnitz, Biddle, Bigelow, Bonham, Brown, of Northampton, Chandler, of Philadelphia, Clarke, of Indiana, Cleavinger, Cochran, Cope, Cox, Cummin, Cunningham, Curll, Darlington, Donagan, Donnell, Doran, Farrelly, Fleming, Forward, Foulkrod, Gamble, Gearhart, Grenell, Hamlin, Hastings, Helffenstein, Henderson, of Allegheny, Hyde, Long, Lyons, Maclay, Magee, Martin, Meredith, Merrill, Myers, Nevin, Overfield, Pollock, Porter, of Lancaster, Reigart, Scott, Sellers, Scheetz, Shellito, Stevens, Stickel, Swetland, Todd, Weidman, Woodward, Sergeant, *President*,—57.

NAYS—Messrs. Agnew, Banks, Barndollar, Bayne, Bedford, Bell, Brown, of Philadelphia, Carey, Chambers, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Craig, Crain, Crawford, Crum, Darrah, Denny, Dickey, Dickerson, Dillinger, Dunlop, Earle, Fry, Fuller, Harris, Hayhurst, Henderson, of Dauphin, Hiester, High, Hopkinson, Houpt, Ingersoll, Jenks, Keim, Kennedy, Kerr, Konigmacher, Krebs, Mann, M'Call, M'Dowell, M'Sherry, Merkel, Miller, Montgomery, Purviance, Read, Ritter, Riter, Rogers, Royer, Russell, Saeger, Serrill, Sill, Snively, Taggart, Weaver, White, Young, —63.

Mr. FULLER, of Fayette, submitted the following resolution, which was laid on the table, and printed.

*Resolved*, That the committee on Corporations, Currency, &c., be instructed to enquire into the expediency of so amending the Constitution as to prohibit the Legislature from granting any act or acts of incorporation for banking purposes, to any company or companies, without making the stockholders thereof accountable, jointly or severally, in their personal, real and mixed estates, for all the debts and liabilities of such institution or institutions.

Mr. DORAN, of Philadelphia, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the Constitution be so amended that there shall be but one criminal court for the city and county of Philadelphia, to have exclusive jurisdiction over all crimes committed in the said city and county, or in any part thereof, the regular sessions of which court shall be on the       day of every month.

Mr. STEVENS, of Adams, submitted the following resolution :

*Resolved*, That a committee be appointed on the subject of secret societies and extra-judicial oaths.

The resolution having been read, it was ordered to a second reading—ayes 63, noes (not counted.)

The question being on the passage of the resolution, the ayes and noes were demanded by Mr. MANN, of Montgomery, and Mr. HIESTER, of Lancaster.

Mr. EARLE, of Philadelphia, moved to amend the resolution by striking out all after the word “Resolved”, and inserting in lieu thereof, the following words :

“That a committee be appointed to report whether any measures shall be taken on the subject of secret societies and extra-judicial oaths”.

And the question being taken on the motion to amend, it was decided in the negative.

Mr. DORAN, of Philadelphia, moved to amend the resolution, by inserting, after the word “societies”, the words “especially Anti-Masonry”.

Mr. STEVENS, of Adams, said, I do not rise to discuss the subject before the Convention, nor to answer any remarks or arguments used by the gentleman from the county of Philadelphia, to whom I have occasion to allude. An answer to any remarks of his, I do not expect ever to feel it my duty to furnish in this Convention. Nor should I now notice any thing which he has said, had he not made me say things which I never either conceived or uttered. Nor should I have thought it worth while to contradict what he has put into my mouth, were the effect of his assertions to be confined to this Convention, who heard and understood us both. But I perceive, by accidentally looking at our reported debates, in the Chronicle, that he has put his assertions in print, and sent them forth to the people, who have not heard and who know neither of us. Valuing, as I do, the good opinion of the people, more than some of their representatives, I think it my duty to correct the misrepresentations, (unintentional, I hope,) made by the gentleman from the county of Philadelphia, (Mr. DORAN) of what I said in debate. The reported speech of that gentleman has the following passage : “The gentleman from Adams, (Mr. STEVENS) intimated, when speaking of the judiciary committee, that none but lawyers should, in his opinion, be on that committee, and violently insinuated that none others could make a good Constitution”.

“He (Mr. DORAN) was not disposed to think as badly of the intellect and judgment of the rest of his fellow-citizens as that gentleman”.

Now, sir, as my remarks, to which the above purports to be an answer, are not reported, and never will be, if they should wait until I furnish a copy of them, I have thought it my duty to deny that I ever said or insinuated any thing like the above remarks, or from which any intelligent and candid man could have drawn such an inference. I did say, what I repeat, that I believed learned and experienced judges and lawyers were

better acquainted with the subject of the judiciary, than gentlemen of any other profession or occupation could be supposed to be. And I asked, whether it was the desire of those who complained of the organization of the committee on the judiciary, to have that subject taken from upright and respectable judges, and referred to coopers and tinkers, to tinker up a Constitution—not to guard the interests of the honest farmers, mechanics and laborers, but to gratify the wild visions of idle dreamers—not to protect the vested rights of the agriculturists, and the life and liberty of the honest poor man from the overbearing influence, and persuasive gold of the rich, but to prostrate all these, through a corrupt, dependant, inexperienced, and demagogical judiciary, before the wild, revolutionary, and agrarian folly of modern reformers.

It is perhaps due to the gentleman from Philadelphia county, (Mr. DORAN) to acknowledge that his arguments and illustrations went very far to convince me that I was wrong, when I asserted, that it was to be presumed that experience and able judges and lawyers were better acquainted with the subject of jurisprudence, than gentlemen of any other profession or occupation could be. He repelled this imputation with virtuous and patriotic warmth, and by the way of illustrating his position, exclaimed, “I, myself, am a lawyer”! I perceived that the argument, accompanied with the example which he adduced, seemed to have a powerful tendency to convince the Convention that he was right. I, therefore, confess my diffidence as to the correctness of my argument.

From the manner in which the gentleman on that and some other occasions, noticed the few remarks with which I troubled the Convention, I am led to suppose that he believed me to refer to him. Unwilling to be thought to indulge in any offensive allusions, I assure the gentleman that when I said, “that lawyers were presumed to know more of law than those who had never studied the subject”, I meant nothing personal in regard to him. I hope, therefore, he will acquit me of making any such allegations against him. He had no particular objection to the amendment of the gentleman.

Mr. DUNLOP, of Franklin, expressed a wish that the gentleman from Montgomery would withdraw the call for the yeas and nays.

Mr. MANN, of Montgomery: Mr. President, I would willingly oblige the gentleman from Franklin in many things, but in this particular, I cannot consent. I deprecate the introduction into this Convention, of any matter so totally irrelevant, so unconnected with the objects for which it has assembled, and calculated only to break in upon its harmony, and mar the peace, as well as retard the progress of its deliberations. Under this view of the subject, I cannot withdraw the call for the yeas and nays; and I shall vote against the reference to a committee.

Mr. MARTIN, of Philadelphia, moved the postponement of the subject for the present.

Mr. BELL, of Chester, said although he was not generally opposed to committees of enquiry, the suddenness of this motion, and the unexpected course which had been pursued, had left him no opportunity to give the subject that deliberate reflection which was due to it. He had, therefore, merely risen to say, that although the gentleman from Adams (Mr. STEVENS) was in possession of the whole subject, he (Mr. BELL) had not calculated that he should have to turn his attention to it. The gentleman

from Adams is ready now to proceed with the discussion : I am not ready ; and in order to give myself time for due reflection, I shall feel myself called upon to vote for the motion to postpone. I hope the subject will be postponed, but not for the purpose of stifling enquiry.

Mr. DENNY, of Allegheny, considered the subject as one which commended itself to the minds of all the gentlemen of this Convention. Was it possible, that a subject which had been so long before the public, which had been the theme of books, and newspapers, and the subject of discussion through the whole community, had not reached the mind of the gentleman from Chester ? Could any gentleman say, that he had not so far made up an opinion on this subject, as to be able and prepared, at once, to vote either for, or against the raising of a committee, on a topic, which must have been for many years, familiar to every one who now heard him ? The discussion which had taken place on yesterday, concerning oaths, was one of great and singular ability : and after that discussion, was any gentleman prepared to say, that he had not now made up his mind for, or against the multiplication of oaths ? The Anti-Masons courted enquiry : and he hoped the committee would give the gentleman from Philadelphia, (Mr. DORAN) an opportunity of investigating their whole course and conduct. I will then, (said Mr. D.) if required, vote to give all the time which may be necessary for a full investigation ; but I can see no necessity for giving time now for gentlemen to make up their minds as to the vote which they shall give on the subject of reference.

Mr. BANKS would, he said, vote against the proposition to postpone ; he would, also, vote against the resolution. He was not satisfied that any advantage would result to the people of the Commonwealth from this enquiry, even if a committee, consisting of the ablest men in the body, should make a report as voluminous as the debates of the Convention of 1790. If this was a matter affecting the welfare and happiness of the people, he would go for it ; but, as it was of an imaginary nature, and of no substantial, present, or future value, he would go against it. He had no objection to the discussion of this subject in county meetings, or bar-rooms, and in the halls of the Legislature, or wherever else it would be made a political hobby. Gentlemen might then raise their voices against extra judicial oaths and secret societies, as loud, and long as they might think proper, against every thing, right or wrong, as they pleased ; but, in that body, consisting of men, whose worth had been well tested in trials and perils, such an inquiry was unnecessary, and out of place.

It was not expected, or required by the people, that the Convention should take any measures or adopt any resolutions, in regard to these things, much less incorporate them into the Constitution. He had no apprehension that any injury would result to the country, either from Masonry or Anti-Masonry. As long as the people enjoyed their rights, as long as they should hereafter enjoy the right, which he was confident this Convention would not take from them, of going to the ballot box, he should have no fears of any lasting evil to the country from such measures—no fears for the safety of the republic. The inquiry would end in nothing practical or beneficial, and the Convention had better let alone subjects, the discussion of which would agitate so deeply and tend to destroy social intercourse with one another, & end, perhaps, in cutting off mutual communications on the great subjects committed to their charge. It would serve no



purpose but to excite angry and indignant feelings, and had, therefore, better be let alone. Of what consequence was it to him, that a man belonged to one society, moral or religious, or another, followed one honest pursuit in life or another. To him it was nothing, if he was an honest man, disposed to do right, and acted in conformity with that disposition.

Mr. BELL, in answer to the gentleman from Allegheny, (Mr. DENNY) would remark, that he did not affect to be ignorant of a question which had so long agitated the State, nor had he been deaf to the able and learned discussion of yesterday, on the subject of extra-judicial oaths: all he asked was time to consider whether it was necessary to go into an enquiry upon these subjects. The purpose for which we were sent here was to make a change in the Constitution of Government; and he was sorry to observe a growing disposition to enter upon the business of legislation. Gentlemen came here only to lay the foundation of a Government, not to anticipate ordinary legislation. He was opposed to the introduction, in a fundamental law, of any thing that looked like minutiae. If extra-judicial oaths were an evil, and he presumed they were, why could they not be suppressed by the Legislature. The gentleman from Adams had made two attempts to introduce something into the codes of law on this subject, and without success. I, sir, (said Mr. B.) live in a county in which Anti-Masons are numerous, and I know none who are more pure and conscientious in feeling and action, than are to be found in that class; but I am free to declare that they do not wish any thing introduced in the Constitution, which is not of a fundamental character, however flattering it may be to their pride, or honorable to their objects. He did not think it unreasonable to ask a little time, to consider whether we ought to inquire into this subject, and he pledged himself in all sincerity, that if it was proved to him that this was a proper subject for the action of the Convention he would go with the gentleman in its prosecution, heart and tongue. He held himself open to conviction, but was not led by prejudice. Convince him that the enquiry was necessary and proper, he would be willing to sit here for a year, in order to bring it to a close. But he would not go heedlessly into enquiries and debates, which could only lead to contrariety of opinion and confusion of counsels.

Mr. STEVENS said, the question was whether we should proceed to the consideration of the subject or postpone it. It was now no question as to the propriety of raising the committee, but merely whether the subject was sufficiently understood to enable every man to give his vote upon it. He would ask every candid man to say whether he had not made up his mind on the subject, one way or another. He would ask the gentleman (Mr. BELL) whether he expected any information, within a day or two, which was to govern his decision. If he was to consult with his friends, to receive documents from abroad, or to apply himself to deep meditation on the subject, he would willingly afford him the time which he had demanded, for the consideration of a question which had been so suddenly brought before the Convention and the people. Was it not one of the first subjects brought before the Convention, and was it not known that it would be brought before us? The gentleman, had, to some extent, discussed the proposition of the inquiry by a committee. The interest which a large body of the people felt in this subject, was a sufficient reason for giving it to a committee; and he trusted that no report would be made having any



other object than the public peace, and welfare. When a report was adopted and sent forth, it would greatly conduce to calm the agitation of the subject. But the inquiry was demanded by thousands, and was due to their deep and earnest feeling on this subject. It was time that it was submitted to the people of Pennsylvania, instead of an organized society. The subject never was fairly and freely considered. They never had a fair vote upon it, disconnected from the influence of oath-bound societies, and party interests. If this people will but come to a decision—if they would say to these corporations, go on—your course is correct and your influence wholesome;—I (said Mr. STEVENS) will acquiesce, and not again touch the subject hereafter. But, until he had an opportunity of bringing the question to that decision, he would continue to press it. Gentlemen need not expect to stifle the voice of inquiry, and if they pleased, of agitation. The opponents of this system—whatever you may think of them in other respects—are fearless and persevering. Had they not been so, they could not so long, and so successfully, have combated against the coalitions of prejudice and power. They had breasted the storm without shrinking. Again, he assured gentlemen that they could not expect to gain time, by smothering inquiry. It would have the effect to compel us to offer the proposition on every occasion. We (said Mr. S.) will continue to do it—and there is no rule of this body to prevent us—until the object is effected. I ask gentlemen (concluded Mr. S.) to give us the committee. Reserve your judgments, reserve your arguments, till the subject comes before you, in the certain form of a report.

Mr. SCOTT, of Philadelphia, regretted, he said, that the gentleman from the county, (Mr. DORAN) had offered any modification of the resolution, for the amendment would give it more of a speculative character and direction than the original resolution possessed. The resolution of the gentleman from Adams proposed an inquiry into two subjects, which were distinct, yet perhaps connected—secret societies and extra-judicial oaths. Some discussion had taken place on one of these subjects, the minds of members had been turned to it, and, perhaps, made up in regard to it; but, as to the other, there had been no discussion nor inquiry. He could not see why, if inquiry and discussion were necessary, they could not be had. He did not think there was any thing in these subjects of so exciting and irritating a nature, that gentlemen, in discussing them, should necessarily lose sight of the courtesy due to each other, or of their duty to the Commonwealth. The resolution embraced all secret societies, religious, moral, and political. He confessed that his mind was open to conviction in regard to the subject, and that he was in favor of the inquiry proposed. It was, in a *republican* country, a curious and somewhat novel subject of investigation. In monarchical and despotic lands, we knew, historically, something of the character, objects, and influence of secret societies. Originating in hatred of tyranny, nourished by the reciprocated hate of the tyrant—upheld by the spirit of enthusiasm—cherished from the love of danger—protected and endeared by the veil of mystery, they have, in such lands, grown up—played their several parts in the drama of nations—submitted to persecution, and become extinct. They were coeval with the days of chivalry, and mingled with the best emotions of the heart. They may be traced back among the institutions of the most enlightened nations of antiquity, and, although often abused,

are generally found in association with the rites of religion, or conversant in the protection of the weak against the encroachments of the powerful. Germany acknowledged them in the semi-judicial tribunal of the *Vehme*, which made despots tremble, whom no other power could reach. That tribunal fulfilled its part, and was finally put down by the despotism which had more than once quailed before its decrees.

In the fair and beautiful land of Italy, which had so long been prostrate at the feet of her Austrian oppressors, torn and distracted as she was with internal dissensions, there arose the secret association of *Carbonari*, a band of devoted and virtuous champions of freedom and foes to tyrants. They became the subject of Austrian suspicion and hostility, and were finally suppressed. In bigoted and despotic Spain, there was another secret society—a society which had been alluded to in this Convention, and it was put down by the hand of that arbitrary power, whose principles it opposed, and whose jealousy it had excited. In all places to which they retreated, whether in the mazes of the cities, or the deep obscurity of the forests, they were hunted, till they were dragged forth and trampled on. When Europe was in the hands of *NAPOLEON*—when parent and child were severed by his stern proscription—when no power existed which could control his will, there arose, even in the bosom of the army, a secret society, which the tyrant soon found it necessary to put down. So, in England, wherever it was necessary to organize a resistance to oppression, it was always effected by some secret association, formed and acting in the shade of obscurity.

The first germs of the reformed religion grew up in silence, and shadowed by the protecting darkness of studied secresy. The *Waldenses*, humble, lowly, buried in the bosoms of their beautiful and secret valleys, preceded the bolder lustre of avowed reform, and, while that secresy was preserved, escaped the bitter tread of persecution.

Wherever, in the bosom of monarchies, any portion of liberty has existed, secret societies have guarded it, and whenever it was to be won, they have marshaled the way, and pointed the road to victory. He would not say that they ought to be cherished in this country, nor would he say that it was proper or improper for societies here to meet in secret. Sir, (said Mr. S.) we have secret societies all around us. The first day that we entered this Capitol, we formed ourselves into two distinct secret societies—sixty-six of us in one, and sixty-six in the other, and the members of these societies were pledged to each other; under the penalty of personal dishonor, for violation of that pledge. Secret societies existed every where, in every legislative body, and in every community—in our college halls, and among the young, and pure, and ardent spirits, who, in these halls, are imbibing the lessons which will fit them, in their turn, to guide, and govern, and direct the nation. They seemed to be natural to the human heart. And, while their influence in monarchies was historically known, their fitness to the republican form seemed still to be a matter of speculation.

He was always willing to enter into an inquiry on any subject where it was desired. If it was competent for freemen to restrain the action of freemen, we had a right to know the grounds on which that restraint was sought to be imposed. He hoped the subject would be carefully examined by a committee, that they would make all the necessary inquiries in

regard to it, and that they would make a report to this body. He was opposed to the postponement, fearing, as he did, no excitement or disturbance from the consideration of the subject.

The mere glance he had taken at former ages, and other lands, an outline susceptible, upon the proper occasion, of very wide developement, would serve to shew, that if time would permit, and the duties of this Convention should hereafter justify deliberation upon the topic, it was one of wide extent, and rich in illustration, however it might be deemed unworthy the grave examination of men, who felt that the deep seated freedom of their country might well afford to smile at mysteries, or fearlessly indulge the visionary enthusiasm of secret societies.

Mr. BROWN, of Philadelphia, said, as he had previously indicated that he would vote for the resolution of the gentleman from Adams, in relation to "secret societies and extra-judicial oaths", and as he now intended to vote against it, in consequence of the amendment of his colleague, (Mr. DORAN) giving to the committee the power to enquire into the "rise and progress of Anti-Masonry", he would briefly give his reasons for his vote. He thought Anti-Masonry a political disease, similar to some diseases that affect men once, but never return again, and would soon pass away like other political humbugs that had been gotten up within the last fifty years in the United States by political demagogues, to raise themselves into office and power. He did not at any time think the proposition of the gentleman from Adams, was one that ought to be brought before the Convention, but as he then thought, and which has since been proved too true, that that gentleman would have that subject before the Convention, as one of the many crude notions the Convention would have to suffer to come before it, it would be as well to let him have his committee at once, and relieve the Convention from a further infliction of speeches, and the gentleman's own mind from the burthen that seemed to be weighing him down, and disturbing his dreams by day and by night, and which he has, every day, and on every occasion, in some shape or other, dragged into the Convention, to make a speech upon. He will have it here, and I (said Mr. B.) am willing to let him have it, in his own keeping; but I am not willing to raise committees to inquire into all the political parties that now exist, or that may have existed in this State. We might as well inquire into the rise and progress of whiggery, or any other political name that parties gather under. He said a new political party was rising in the north, from which quarter Anti-Masonry came, and all the new political notions do come, that affect Pennsylvania, which was a crusade against the Catholic religion. Shall we inquire into the rise and progress of this? I am opposed to resolving this Convention into a committee, to examine into the rise and progress of parties, of which neither my constituents nor myself care anything. Ought we not rather go on to consider such amendments to the Constitution as the people have sent us here to propose, and leave it to the people themselves to discuss the rise and progress of these subjects?

Mr. SHELLITO thanked the gentleman from Philadelphia, for having so fully expressed his own views on this subject: and remarked, that he might as well, at the same time, have included religion also; concerning that, there was a great difference of opinion, and much sectarian zeal, and if the spirit of this resolution should be countenanced, we should soon see religious sects denounced, as the Masons now were.

Mr. BROWN said he would just add, that a strong spirit of hostility had risen in the east against the Roman Catholics: most of our excitements rose in the east, and travelled gradually into this State. He soon expected to witness an attempt to disfranchise the Roman Catholics.

Mr. STEVENS modified his resolution by striking out the word "Anti-Masons", in order that he might not embarrass gentlemen, who were opposed to its introduction into the inquiry.

Mr. BROWN asked whether the gentleman had a right so to modify the resolution.

The CHAIR replied in the affirmative; but remarked, that the motion could be renewed.

Mr. STEVENS had, he said, only a word to say. He would not go into the whole subject of Anti-Masonry now. When a proper time arrived, he would attempt to answer the gentleman from Philadelphia, (Mr. SCOTT) and, until then, he would advise the gentleman to throw away no powder in skirmishes, as he might find himself in want of all his ammunition.

Mr. FORWARD said he would not commit himself in regard to his final vote on this question. He should certainly vote for the inquiry, for the reason that a large number of our fellow-citizens considered secret societies and extra-judicial oaths as among the most portentous evils of the day.

The call for the yeas and nays having been withdrawn, the amendment moved by Mr. MARTIN was decided in the negative.

Mr. DORAN then moved to amend the resolution by inserting after the words, "secret societies", the words, "especially Anti-Masonry", which was negatived.

Mr. EARLE, of Philadelphia, said the advocates of the resolution considered it as standing now, just as it would, if his motion to amend had been adopted. A majority of the Convention seemed to think that some inquiry was necessary, and he saw no harm in it. Whether right or wrong, a large number of gentlemen have entertained the opinion, that the inquiry was proper, and it was not for him to say, whether it was right or wrong. He held with JEFFERSON, that error was harmless, as long as truth was left free to combat it. He was in favor of inquiry, generally, whenever it was asked; and he was sorry to say that gentlemen, on the other side, were not so generally in favor of it. Early in the session, he had offered a resolution of inquiry, which was rejected. There must be great inconsistency somewhere, in resisting inquiry desired by some, and not when desired by others; but he should, himself, endeavor, notwithstanding this, to preserve his own consistency. He belonged to a party who held every thing open to free inquiry and investigation.

Mr. BONHAM wished to state to the Convention, the reasons which should govern him in giving his vote on this subject. He intended to vote against referring the matter, now before the Convention, to a committee; and he did so, because he believed there had already been too much time and money wasted on this subject; and of this, he thought the people had given us full evidence at the October elections. At the session of the Legislature before the last, there had been much time occupied on this subject, which might have been occupied on subjects more interesting to the people; and, knowing that this question was a very great hobby with the gentleman from Adams (Mr. STEVENS), he felt satisfied in his own mind that much of our time, if this resolution should be adopted, would be

taken up with a useless discussion, on a subject of not the least importance to the people, and which they did not wish the Convention to waste time with. Taking this view of the question, he should vote against referring the subject to a committee.

Mr. CRAWFORD said: Mr. President—Sir, I am opposed to the resolution offered by the delegate from Adams, because I can see no good to be derived from an inquiry, such as the one proposed to be made; while, in my view, considerable evil might be produced, by incessantly thrusting the subject upon the attention of the Convention. If it was necessary that a provision should be engrafted upon the Constitution about to be framed, prohibiting citizens of a free republic from exercising the privileges of freemen, and connecting themselves with societies of any kind, moral, religious, social or political, then indeed such an enquiry might be proper. Or, if Masonry and Anti-Masonry were so arranged against each other, as to endanger the peace and harmony of the good people of this Commonwealth, then it might call for the action or serious consideration of this Convention; but, sir, I am happy to know, that neither of these cases is the fact. No majority, I am satisfied, will be found in this body, in favor of engrafting upon the Constitution, any provision which would go to abridge the privileges of any citizen of the Commonwealth, or prohibit him from attaching himself to any religious, moral, or social society, a connection with which he believed calculated to promote his happiness: and, on the other hand, I feel satisfied, from what I have discovered since I came here, that there was nothing in the distinction between Masonry and Anti-Masonry, which was calculated to sow the seeds of discord among the people, and all have the undoubted and indefeasible right to enjoy their own opinions on both these subjects; and, after observing the union and harmony which have characterised this Convention thus far, a harmony which had almost led me to anticipate the speedy arrival of the long promised millenium, I cannot for a moment entertain an idea that any serious evil is to be apprehended from not considering the subject embraced in this resolution. Entertaining these opinions, and believing its consideration unnecessary, I will content myself with voting against the proposition.

Mr. DUNLOP then enquired whether the resolution, which had been adopted, requiring the committee to report simple propositions to amend, without any other report, applied to any other than the standing committees.

The CHAIR replied, that the resolution applied only to standing committees.

Mr. DUNLOP then moved to make this a standing committee, so that it might make no report, but a simple proposition to amend the Constitution, if an amendment be deemed necessary.

Mr. D. begged leave to state to the Convention, the reasons which induced him to make this motion. It was not his desire that this question should be referred to a special committee, to go into any investigation of matters relating to secret societies, or to any other matters which had the most remote tendency to create a political excitement; as, he believed, questions of that character should not be introduced into our deliberations. If this subject was to be referred to a committee who were to take it up, examine and consider it, and bring in a naked proposition on the subject, without



any other report, and without any comment, he would be disposed to vote for it, and he had submitted the amendment with this view alone; but if it were proposed to go into an investigation of the whole subject of Masonry, and of all subjects connected therewith, in this Convention, he could not give it his sanction. Although a great number of his constituents were Anti-Masons, he could not give his vote in favor of a special committee, to go into an almost endless examination of the question of Masonry or Anti-Masonry, nor should he desire that any thing in the shape of a report should be thrown upon the Convention, and the public, at this time, that would be so likely to produce a political excitement, in an assemblage in which all party feelings should be entirely suppressed. He did not say that the gentleman from Adams (Mr. STEVENS) desired to introduce questions of party politics into our deliberations, but he feared that such a result would necessarily follow, if this committee were raised, and clothed with power to make a detailed report on those exciting subjects, and, for this reason, he should vote to refer the subject to a standing committee, from whom there would emanate, not a report, but a simple amendment to the Constitution. He should vote to refer the subject to this committee, but he would reserve to himself the right of his opinions upon the amendment, when it should be brought in; and if it should disfranchise any man for a mere negative connection with any secret or other society, if it should disfranchise any man for now belonging, or for having belonged to a secret society, it should meet his decided opposition. He should hesitate in inserting a clause in the Constitution, disfranchising any man for the solitary fact of his now belonging, or having once belonged to a secret society. With regard to Masonry, it was fast becoming a dilapidated order. There was a time when that ancient institution was much more revered than at present. Now, sir, you can hear your royal arch masons, your grand masters, and your knights templars, expressing themselves, as though they were entirely indifferent to its preservation, and many of them had no objection to see the fraternity prostrated; in fact, he had heard a mason of high standing say, not long since, that he should have no objection to vote for any committee of investigation, to see the order die away entirely and sink into lasting oblivion. He knew there were many masons perfectly indifferent about the order, as useless, or unsuited to the enlightened progress of the age, and, although some few might be found, who held their obligations to their society paramount to every other, yet he knew there were many of our high minded, honorable, and patriotic citizens belonging to this society, who held their obligations to their country superior to any obligations they ever owed to Masonry, and he believed this to be the general feeling among the intelligent masons of the day. Mr. D. was no mason; he never had belonged, and never would belong to secret societies, and if their oaths were what they have been represented to be, he detested them from his very soul, but he believed there were many masons who held a mere negative position in relation to these societies. These persons, who stood in this situation, were men who formerly had belonged to the Masonic society, but who have long since withdrawn from its lodges and parades, and were entirely indifferent whether the order was sustained or not; indeed, many of them would be well enough satisfied to see the society broken down, although they, themselves, would not lend an active aid in



affecting it; and would you insert a clause in the Constitution disfranchising such men as these? He trusted not. He had desired to express himself in this manner, in order that he might be understood, because he stood in a delicate position in relation to this matter. A great many of his constituents were Anti-Masons, and perhaps they might denounce him for the sentiments here expressed. He hoped, however, they would feel and acknowledge the propriety of his course upon this occasion, but, if they did not, he had only to say, that he should never, for any consideration of occasional popularity, shrink from the independent discharge of what he considered to be his duty. He believed, however, that a large majority of the people of the senatorial district, which he had the honor to represent, would be hostile to entering into an investigation of this character, and would be averse to throwing out before the people, and this solemn assemblage, any report upon this engrossing subject. He was then obeying, in supporting this amendment, what he sincerely believed to be the sentiment of a large majority of the people of the counties of Cumberland, Franklin and Adams; and he believed this to be the sentiment of a large number of his Anti-Masonic constituents; but let this be as it may, he should always be independent enough to vote as he considered his duty to his country, and his conscience, required, without regard to the ephemeral politics of the day. He would here take occasion to say, that he held himself bound to obey the will of his constituents, upon all occasions, when he could do so, consistently with his duty to his country and his conscience, and he had frequently, during his representative career, voted contrary to his own private opinions, because, he believed the sentiments of his constituents to be different from his own; but, there were times, when a representative was compelled to go against the voice of his constituents—there were duties imposed upon the representative, at times, which left him no alternative but to vote contrary to the will of his constituents, and he begged leave to allude to one occasion, particularly, in which he had voted contrary to what he believed then to be the wishes of a majority of his constituents. The occasion alluded to, was when he had voted against a batch of lotteries for the relief of certain turnpike roads, and when he returned home to his constituents, he found many of them, although he was satisfied that he had conscientiously discharged his duty, were so incensed at his course, that he entertained some doubt if he could have been elected constable, in any township in his district; but scarcely had two years passed away, before they found he had done them a great service, in opposing a monstrous project of bloated speculation and fraud, that would have ended in bankruptcy, without the slightest pretensions of advantage to those upon whom it was intended to confer its boasted favors.

Mr. HAYHURST said, as others had taken occasion to give their reasons which were to govern them in their votes, it also became his duty to do. In the first place, he should vote for the amendment, and if the amendment prevailed, he should then vote for raising the committee proposed to be raised by this resolution. He was not aware that there was ever any great excitement prevailing among the people he had the honor to represent, on the subject of secret societies, and perhaps they were not very well informed on the subject, and if this inquiry should tend to enlighten his mind, or the minds of his constituents, it would not be altogether lost

Mr. MANN demanded the yeas and nays on the resolution, and the question was then taken, and decided in the affirmative, as follows :

**YEAS**—Messrs. Agnew, Ayres, Baldwin, Barndollar, Barnitz, Bayne, Bedford, Biddle, Brown, of Philadelphia, Butler, Carey, Chambers, Chandler, of Philadelphia, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Doran, Dunlop, Earle, Farrelly, Forward, Fry, Fuller, Gamble, Grenell, Harris, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Houpt, Ingersoll, Jenks, Keim, Kerr, Konigmacher, Long, Maclay, M'Cahen, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Overfield, Pollock, Porter, of Lancaster, Purviance, Reigart, Riter, Ritter, Rogers, Royer, Russell, Saeger, Scott, Serrill, Sill, Snively, Stevens, Swetland, Taggart, Todd, Weaver, Weidman, White, Woodward, Young, Sergeant, *President*—84.

**NAYS**—Messrs. Banks, Barclay, Bell, Bigelow, Bonham, Brown, of Northampton, Clapp, Clarke, of Indiana, Crain, Crawford, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Fleming, Foulkrod, Gearhart, Gilmore, Hamlin, Hastings, Helffenstein, High, Hyde, Kennedy, Krebs, Lyons, Magee, Mann, Miller, Myers, Nevin, Read, Selera, Shellito, Smyth, Stickel—38.

*Ordered*, That Messrs. STEVENS, DENNY, SCOTT, BONHAM, COX, DUNLOP, CLARK, of Dauphin, PORTER, of Lancaster, and M'CAHEN, be the committee for the purpose expressed in the said resolution.

Mr. MERRILL, of Union, submitted a resolution authorizing the purchase of 50 copies of Purdon's Digest, to be placed in the State Library, for the use of the Convention, which was read, but, on the question of its second reading, was negatived.

Mr. BANKS, of Mifflin, enquired of the Chair whether the various resolutions, which had been offered, containing propositions of amendment, had been referred to the appropriate committees, under the resolution of the gentleman from Lancaster (Mr. HIESTER).

The PRESIDENT stated—It had been understood to be the sense of the Convention, that all such resolutions as had been, and all such as might be hereafter submitted, should take that course, and they were consequently referred.

On motion of Mr. BANKS, the following resolution submitted by him on the 9th, was then taken up for consideration :

*Resolved*, That the Secretary of the Commonwealth be requested to furnish the Convention with a table, or statement, of the number of taxable inhabitants in the respective wards of the several cities, and the respective boroughs and townships of the several counties in the State, according to the enumeration made in 1835 and '36.

Mr. BANKS stated, that the information was necessary to assist the Convention in apportioning the number of the Justices of the Peace to the districts and townships.

The resolution was then read a second time, and agreed to.

Mr. MILLER, of Fayette, submitted the following resolutions, which was ordered to be laid on the table, and printed.

*Resolved*, That the committee on the fifth article be requested so to amend said article, that the Governor shall nominate, and by and with the advice and consent of the Senate, appoint the Judges of the Supreme Court, for the term of nine years ; and the President Judges for the County Courts, for the term of seven years, if so long they behave themselves well ; Associate Judges for the County Courts, to serve for seven years ; Prothonotaries, who shall perform the duties of Clerk to the Courts of Oyer and Terminer and Quarter Sessions ; Recorders, who shall perform the duties of Register of wills, and Clerk of the Orphans' Court ; Prosecuting Attorneys of the Commonwealth, and County

Surveyors, to serve for three years; and shall be chosen by the qualified electors, at the times and places of election for representatives.

*Resolved*, That the committee on the first article be instructed to report in favor of reducing the Senatorial term to two years, so that one half of that body may be elected every year.

*Resolved*, That the said committee be instructed to report against the establishment of any lottery, or the sale of lottery tickets in this Commonwealth.

*Resolved*, That the said committee be instructed to enquire into the expediency of the Legislature meeting on the first Monday of January, of every year, unless sooner convened by the Governor, and adjourn on the first Monday in April, except in case of insurrection or actual war.

Mr. DARRAH, of Berks, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the committee on the first article of the Constitution be instructed to enquire into the expediency of altering the seventeenth section of said article, as follows: The members of the Legislature shall receive for their services a compensation, to be ascertained by law, and paid out of the public treasury, but no increase of the compensation shall take effect during the term for which the members for either House shall have been elected; and such compensation shall never exceed three dollars a day.

*Resolved*, That no member of the Legislature shall receive any civil appointment from the Governor and Senate, or from the Legislature, during the term for which he is elected, or for one year thereafter.

Mr. CUNNINGHAM, of Mercer, from the committee to whom was referred the third article of the Constitution, made the following report of the first section, amended as follows, and the two other sections, without amendment, which was ordered to be laid on the table, and printed.

#### ARTICLE III.—OF ELECTIONS.

SECTION 1. In elections by the citizens, every freeman of the age of twenty-one years and upwards, who has resided in the state one year immediately preceding such election, shall be entitled to vote in the county or district in which he shall reside.

SECTION 2. All elections shall be by ballot, except those by persons in their representative capacities, who shall vote *viva voce*.

SECTION 3. Electors shall, in all cases, except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from them.

Mr. JENKS, of Bucks, from the minority of the committee to whom was referred the third article of the Constitution, made the following report, which was ordered to be laid on the table, and printed.

That they have had the subject under consideration, and report, as an amendment to section first, one, instead of two years, residence; and, the remainder of the section, they report without amendment. To the end of the section they report the following additional proviso, viz: "And provided further, that the sons of persons qualified as aforesaid, shall have a right to vote between the ages aforesaid, although their fathers may have been dead more than one year.

The second and third sections they report without amendment.

PHS. JENKS,  
DANIEL SAEGER,  
JOHN CLARKE.

Mr. EARLE, from the committee appointed to consider and report whether any, and, if any, what provision ought to be inserted in the Consti-

Mr. FULLER accepted the amendment, and modified his resolution accordingly, and the resolution was then agreed to.

Mr. RITER, of Philadelphia, moved the consideration of the following resolution, offered by him on the 11th, which was agreed to :

*“Resolved, That the Secretary of the Commonwealth be requested to inform this Convention, what number of pardons have been granted by the Governors of this State, distinguishing the administration of each under the present Constitution.”*

The resolution was then read a second time, and agreed to.

Mr. KONIGMACHER, of Lancaster, moved the consideration of the following resolution, submitted by him on the 11th inst., which was agreed to :

*“Resolved, That the Secretary of the Commonwealth be requested to furnish this Convention with a statement, exhibiting the number of persons executed within this Commonwealth, since the adoption of the present Constitution”.*

The resolution was then read a second time, and agreed to.

Mr. CURLL, of Armstrong, moved the consideration of the following resolution, offered by him yesterday, which was agreed to :

*“Resolved, That a special committee be appointed to enquire into the expediency of a provision in the Constitution on the subject of erecting new counties.”*

The resolution was then read a second time, and agreed to, and the committee was ordered to consist of nine.

The following gentlemen were appointed to compose the committee : Messrs. CURLL, GRENNELL, CRAWFORD, SHELLITO, STICKEL, DORAN, AYRES, CAREY, and YOUNG.

#### EIGHTH ARTICLE.

The Convention resolved itself into committee of the whole, Mr. CUNNINGHAM in the Chair, and resumed the consideration of the eighth article of the Constitution.

The question pending, being on the motion of Mr. DALLINGTON, of Chester.

Mr. DALLINGTON rose and said that it was with a degree of diffidence that he trespassed one moment on the deliberations of the Convention ; and he hoped that they would excuse him for explaining the motive he had in offering the amendment for their consideration. He begged leave, in the outset, to disclaim, once for all, any intention of introducing into this body sectional or party considerations, in regard to this subject. His object, simply, was, in proposing the amendment, to have engrafted on the Constitution, in some shape or other, a provision which all acknowledge to be right, and none could say would be wrong. It had been suggested to him by some of the delegates here, for whose opinions he entertained the most profound respect, that it was unnecessary, inasmuch as it was contained in a provision of the Constitution already existing.

He should, however, submit such views as occurred to him, with the greatest deference to the better judgment, and the more matured experience, of the members of the Convention. He could have wished it had fallen to the lot of some man more experienced than himself, and of sounder judgment and riper age. And, if he should be satisfied that there is a disposition on the part of the Convention not to enter into the subject, and to get rid of the proposition, he should wait for a more favorable opportunity, when he would bring it up in some other shape, and have

it incorporated more appropriately. The amendment, as he had already said, was one which all acknowledge to be right. There should be no power in this Commonwealth to prescribe any other test than that which was prescribed in the Constitution of the United States. We should put it wholly out of the power of any future Legislature, on any pretence whatever, to impose upon us any other test than is prescribed in the Constitution of the Commonwealth. We all know that we have not experienced, as yet, any inconvenience, on account of the want of such a provision in the Constitution. We know that we have enjoyed a degree of personal and religious liberty in this Commonwealth, amply sufficient, and as much as could be desired by any individual, and that no one has been deprived of his freedom, or been oppressed. But, while we live under all the blessings secured to us by the Constitution, it was not improper (Mr. D. maintained) to place additional guards upon the rights of the people, and render their infringement more difficult.

It was well known, that in England, from whence we derived all our laws, there had existed, among a large portion of the people, a disability for holding office. We know, too, that, at the present day, in some States of this Union, a certain class of people are prohibited from holding office. He believed that it was required in the States of Massachusetts and Maryland, that an individual must believe in the Christian religion, before he can hold an office under the State Government. This, fortunately, did not exist here, nor would he allow it to exist in the Constitution by his vote or his voice. We were familiar with the history of the few past years, when an individual of high character and standing in the city of Philadelphia was nominated, with other citizens, for office. And, it was pretty well understood that he was cut off—that he lost his election, on account of his peculiar religious opinions, and for that reason alone—he being of the Jewish persuasion. This was his (Mr. D's.) understanding of the matter at the time. Now, if he was wrong, in the statement he had made, he hoped some gentleman would correct him. We know that another large class of individuals, to wit, the Universalists, had been denounced by some people as unfit to hold office on account of their peculiar tenets. We also know that the respectable society of Friends, in whose bosom he (Mr. D.) was born and educated, had been deemed by many as not entitled to hold offices. And, we know not at what moment the fanaticism and folly of individuals might lead them to prescribe laws, which should prohibit any of these various classes from holding offices. It was with a view to guard against this that he had introduced his amendment. It was, as he had said before, with no view to excite sectarian feelings here, for he wholly disclaimed being actuated by any such motives. Nor was it with a view to weaken the binding obligations of religious feeling on the hearts and consciences of men. No man respected the religious impressions and feelings of his fellow-citizens more than he did. And, he would be the last man in this assembly to weaken the obligations of religious sentiments on the minds of individuals. It was simply with a view to bring to the notice of the Convention the amendment which had been read. It was a proposition that was not new, and which would be found in the Constitution of the United States and of several of the States of the Union. The same thing would be found, in substance, in the Constitution of Massachusetts and of Virginia, and perhaps in others. The



precise words would be found in the Constitution of the State of New York.

It was not a new idea, that we should prohibit the Legislature from imposing any restraint, any other test, than what was prescribed in the Constitution itself. He did not wish, as he said when he got up, to go into an argument.

He would now, most cheerfully, if he could ascertain that the opinions of gentlemen were against it, withdraw the amendment, or have it referred to some other committee.

Mr. FULLER said: Does the gentleman wish to preclude men from taking the oath to support the Constitution of the United States? For, if he will examine his amendment, he will see that its effect is to preclude men from taking that oath.

Mr. DARLINGTON explained, that its effect and intention were confined to the Constitution of Pennsylvania.

Mr. FULLER remarked, that the question would arise whether we were not inserting an amendment inconsistent with the duties of officers holding under this Constitution. It appeared to him inconsistent.

Mr. REIGART said, that he thought that this was not the time to introduce the amendment of the gentleman from Chester. He perceived in the 9th article of the Bill of Rights of this State, 4th section, the following declaration: "No person who acknowledges the being of a God, and a future state of rewards and punishments, shall, on account of his religious sentiments, be disqualified to hold any office or place of trust or profit, under this Commonwealth".

Now, there was a committee appointed on the 9th article, and the amendment might be made there, if it was a good one. But, if it were incorporated in the 8th article, it might militate against the operation of the committee who had been appointed on the subject of the Bill of Rights, and any action on the part of this body might, perhaps, conflict with what they would do. But, as the Convention was now resolved into a committee of the whole, let us enquire, for a moment, whether it would be right to introduce this amendment. Now, there was no disqualification in Pennsylvania; there was no religious test required; there was, in fact, nothing relating to the matter, except what he had read from the Bill of Rights. The language of the section was broad and general, and he did not think that any inconvenience could be felt from it. We were yet to learn that a single human being, during the period that the bill of rights had been in operation—forty-seven years—had been prevented from holding office on account of his religious opinions. So broad and comprehensive in its terms was the fourth section. Well, then, if no inconvenience had been felt for forty-seven years, he apprehended that none would be experienced. Now, if he was right in this—and he understood the gentleman to say that no inconvenience had been felt—then, why introduce the amendment into the Constitution, which might, perhaps, be inoperative? The gentleman had mentioned the case of a gentleman—an Israelite—who, in Philadelphia lost his election, in consequence of his religious opinions. The gentleman, it appeared, was brought before the people, as a candidate for a seat in the House of Representatives, or the Senate of the State, he (Mr. R.) did not know which. The people, however, it seemed, did not think proper to elect him—

whether on account of his religious belief, or what other account he could not say. But he was not before either the executive or legislative branches of the State for any place under the Constitution. He was before the people in their primary assembly. The facts, did not meet the case which it was the object of the gentleman to make out, to show the necessity of his amendment. Now, the defeat of the gentleman in Philadelphia, could not fairly be ascribed to his being a Jew. Well, then, to what cause were we to attribute his defeat? Why, to nothing else but one—a disinclination on the part of the people to elect him. Mr. R. hoped that the committee would not agree to this amendment.

Mr. READ rose merely for the purpose of correcting what he believed an error, fallen into by the gentleman who had addressed the committee, when he stated that no case of oppression had occurred under the 9th article of the Constitution. He (Mr. READ) did not know that any inconvenience in regard to the specific object of holding office, had occurred; but inconvenience, impropriety, and oppression had been experienced. He was of opinion, that some other guards ought to be provided in the Constitution relative to jurors and witnesses. He had heard of a man of the Jewish persuasion, who was subpoenaed to sit as a juror on a trial which was to take place on a Saturday—his Sabbath. The man peremptorily refused to attend, on the ground that it was his Sabbath. The consequence of which was, that he was fined or imprisoned, or otherwise punished by the court. He (Mr. READ) thought the case was to be found in the books, and if any gentleman present could tell him where he could find it, he would thank him. Another case had occurred, in regard to which, he had the most distinct recollection. He knew all the circumstances. In one of the judicial districts of this Commonwealth, lived a gentleman standing at the very head of the bar, and of the community in which he lived—where the court was. He was a man ranking high in point of moral worth and intelligence. And yet he, when a witness was going to give his testimony, refused to allow him, on the ground, simply, that he belonged to a society of Universalists. This case occurred in Bradford county.

Now, he (Mr. R.) would ask the members of this Convention, when such cases occur under our Constitution, was it not perfectly clear, that some provision ought to be incorporated in that instrument, about to be amended, to protect the citizens from a repetition of these acts of caprice and oppression. It seemed to him that both the cases he had mentioned, were gross violations of the spirit of our institutions—of the spirit and meaning of our Constitution. And, he found, too, that it was a direct violation of the spirit of the Constitution of the United States. Such events having occurred, as he had detailed—such inconveniences having been felt, he would put it to gentlemen whether it was not just, that they should introduce some additional guards on the rights of conscience and of religious feeling.

Mr. REIGART observed that the gentleman had fallen into a mistake in citing the case he had done, in regard to a Jew being commanded to serve on a jury on his Sabbath, for the purpose of showing that the Constitution needed amendment. He had failed in doing so, for the case did not apply. All that could be said in relation to the matter was, that the judge had acted in the most oppressive and arbitrary manner. The court had a

right to command obedience to their order and decree, and that right was inherent, and totally independent of, and unconnected with, the Constitution of the State. As he had just remarked, the most that could be said of it, was, that it was an arbitrary exercise of the discretion vested in courts of justice. And, the other case, which the gentleman had alluded to, was precisely of the same character. He would submit it to the legal knowledge of the gentleman, when he said that a man who was rejected in a court of justice, was rejected on grounds totally dissimilar, and having no relation to those which govern oaths taken under the Constitution of the State. The Constitution of the State, which was now under consideration, was confined solely to official oaths, and had nothing, whatever, to do with those oaths taken in courts of justice. The disbelief of a witness was a totally distinct thing from the qualification to hold office.

Mr. READ fully concurred with the gentleman that in both the cases which he (Mr. R.) had cited, there was an assumption of arbitrary power not warranted by the Constitution. But, he would refer to that part of the gentleman's argument, in which he had contended, that no inconvenience had occurred. Now, he (Mr. R.) maintained, that although the cases which he had mentioned, were not justified by the present Constitution, yet their very existence shewed the necessity of inserting some further guards in our next Constitution, to prevent these gross and flagrant violations of conscience hereafter.

Mr. CRAIG said while in committee yesterday, it was said that we ought not to make amendments to our Constitution, unless these changes were advantageous; a principle generally acceded to. Surely then you ought not to make changes in our Constitution calculated to do a positive injury, and he regarded the amendment now offered, of that character. The gentleman from Chester (Mr. DARLINGTON) may not, and he hoped, did not intend his motion to embrace so wide a range, as he conceived it did. If the motion prevails, it would repeal that article of the Constitution in the Bill of Rights which requires a test or declaration of belief by those who are the officers of this Commonwealth—and thus all restraints being removed, you open the way to office for men who do not believe in the being of a God, and a future state of rewards and punishments. The question therefore, is, should this Constitution be based on Christian principles, or not?—Those principles which have been recognized by all your laws and Constitutions, from the earliest period up to the present time.

Mr. C. disclaimed having any wish for sectarian preferences being introduced into our Constitution—he did not wish to join Church and State—he would vote against any thing of that kind. Our Constitution does not recognize such a principle. The gentleman from Chester (Mr. D.) referred to the case of a Jew in Philadelphia. Sir, a Jew is not prohibited from office by our Constitution; neither is a Mahometan; he professes to believe in a future state and a Supreme Being. CICERO, by the force of his own intellect, had expanded views of a future state, and might have held office under our present Constitution. Those views of a future state were very imperfect without the aid of revelation; but they are in some manner or degree understood and believed, even by the Indians of the forest. There are, however, men in Christian lands, even in this land, who wish there was not a future state nor a Supreme Being; who have

given themselves to licentiousness, hardened their hearts, and run upon their own destruction, until they are given up to strong delusion to believe a lie. Are these the men to whom you wish to open the door of office, and ask them to make a solemn appeal to the Supreme Being, when they do not believe there is such a being. France tried the experiment on a large scale. Under the influence of VOLTAIRE's principles, she expunged the name of the Supreme Being from her statute book ; and what was the consequence? A total abandonment to unlawful lusts and passions, until the land was drenched with blood, until force of circumstances and experience compelled them to restore and recognize this principle in their frame of government and laws, where it now is to be found. Those brave men who signed your Declaration of Independence, expressed their dependence on and made a solemn appeal to the Supreme Ruler of the universe. This Convention has recognized the being of a God, and our dependence on him, in giving the ministers of the Gospel an invitation to open our session every morning. I will give one more authority to shew that our government ought to be based on Christian principles, and this authority is one which will be regarded as orthodox, not only by this committee, but also by the whole enlightened world. In his last farewell address, Gen. WASHINGTON enjoined it on the American people to encourage and cultivate the Christian religion, as no republican government could long exist as a Republic without it.

Mr. DARLINGTON said he entirely disavowed any intention of interfering with the Bill of Rights. He had not the slightest inclination to interfere with the religious principles of any man or set of men. He was sorry, then, that after having said what he had done in the outset of his remarks, the gentleman (Mr. CRAIG) should have thought himself called upon to insinuate, by inuendo, what he (Mr. D.) had most explicitly and candidly disavowed. Seeing now, that there was not a disposition to act on the subject, he would ask leave to withdraw the amendment, reserving to himself the liberty to offer it on another occasion.

Mr. D. then, accordingly, withdrew his amendment, and the committee rose and reported the eighth article without amendment.

The Convention then adjourned.

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### THURSDAY, MAY 18, 1837.

Mr. M'DOWELL, of Bucks, submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the second section of the fifth article of the Constitution be so amended, that the several Judges of the Supreme Court shall hold their offices during the term of fifteen years, and that the several President Judges of the Courts of Common Pleas, Oyer and Terminer, General Jail Delivery, Orphans' Court and Court of Quarter Sessions of the Peace, shall hold their offices during the period of ten years.

*Resolved*, That the tenth section of the same article be so amended as to read thus: "The Governor shall appoint a competent number of Justices of the Peace in the several counties of this Commonwealth, but shall in no instance appoint more than two in any one township, unless application be made in writing, signed by two thirds of the qualified electors of said township. The said Justices shall hold their commissions during

the term of five years, but may be removed on conviction of misbehavior in office, or of infamous crime, or on the address of two thirds of both Houses of the Legislature.

*Resolved*, That the third section of the first article of the Constitution be so amended, that no person shall be a Representative who shall not have attained the age of *twenty-four* years; and that the eighth section be so amended, that no person shall be a Senator who shall not have attained the age of *twenty-eight* years.

Mr. KREBS, of Schuylkill, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That the committee on the first article of the Constitution be instructed to enquire into the expediency of so amending said article :

I. The Senatorial term to be two years.

II. The Legislature shall meet on the first Tuesday of January, in each year, unless sooner convened by the Governor.

III. The Legislature shall have no power to attach or unite in any one bill passed into a law, two or more subjects or objects of legislation, or any two or more distinct appropriations, except appropriations to works and improvements exclusively belonging to and carried on by the State.

IV. That a citizen of the United States may be a Senator or Representative of this State, if he has been an inhabitant of this State one year next before his election.

*Resolved*, That the committee on the second article of the Constitution be instructed to enquire into the expediency of so amending said article :

I. That no person shall be capable of holding the office of Governor longer than two terms.

II. The Governor to appoint, with the consent and approbation of the Senate, the Judges of the Supreme Court, and the President Judges of the County Courts, for a term of years.

III. That the Associate Judges, Prothonotaries, Registers, Recorders and Clerks of Courts, and Justices of the Peace, be elected by the people for a term of years.

*Resolved*, That the committee on the third article of the Constitution be instructed to enquire into the expediency of so amending said article :

That a freeman of the age of twenty-one years, having resided in the State six months, shall be entitled to vote at general elections.

Mr. MAGEE, of Perry, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That the committee on the fifth article of the Constitution be instructed to enquire into the expediency of so altering the tenth section of said article, that Justices of the Peace be elected triennially by the people, and that they give bond for their faithful performance of duty.

Mr. RITER, of Philadelphia, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That the Secretary of the Commonwealth be requested to prepare for this Convention, a statement of the number of cases of impeachment and investigation, with a view to removal by address or otherwise of Judges and Justices of the Peace, which have taken place since the year eighteen hundred and twenty, together with a statement of the actual number of convictions and removals under such proceedings.

Mr. EARLE, of Philadelphia, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That the following amendments be added to article fourth of the Constitution.

1. At the end of section first add these words, viz : "*And Provided*, That no person who has made any bet or wager on the result of any election, shall be entitled to vote at such election". Also, add the following :

SECT. 4. To secure fairness and impartiality and a representation of the minority in the reception and counting of votes, the qualified voters of each ward and township in



this Commonwealth, shall, on the            day of            in each year, elect three persons Judges and Inspectors of elections for the year next ensuing, and in such election of inspectors, each elector may vote for not more than two candidates, and the three persons having the highest number of votes, shall be chosen.

Mr. COATES, of Lancaster, submitted the following resolution, which was ordered to be laid on the table, and printed:

*Resolved*, That the second section of the first article of the Constitution be so amended, that the annual election of State and County officers be held on the first Tuesday and Wednesday of September, and that the polls be closed on the evening of each day at seven o'clock.

Mr. KONIGMACHER, of Lancaster, from the committee appointed to ascertain from the members of the Convention, the proportion of English and German Daily Chronicle and Journal of the Convention, best suited for the use of their respective constituents, made a report, which was ordered to be laid on the table, and printed :

Mr. DENNY, of Allegheny, from the committee on the first article of the Constitution, made the following report, which was ordered to be laid on the table, and printed.

The committee on the first article of the Constitution beg leave to make the following report, viz :

That the fifth section of said article be amended so as to read as follows, viz :

SECT. 5. The Senators shall be chosen for three years, by the citizens of Philadelphia, and of the several counties, at the same time, in the same manner, and at the same places where they shall vote for Representatives.

The committee further report, that it is inexpedient to make any alteration in the sixth, seventh, eighth, twenty-second and twenty-third sections of said article.

On motion of Mr. DENNY,

*Ordered*, That the committee on the first article of the Constitution be discharged from the further consideration of the following resolutions :

No. 14. *Resolved*, That the second section of the first article of the Constitution be so amended, that the annual election of State and County officers be held on the first Thursday and Friday of September ; that the tenth section of the same article be so amended, that the General Assembly shall meet on the first Monday of November, in every year.

No. 20. *Resolved*, That the committee on the first article of the Constitution of this Commonwealth be instructed to consider the propriety of reducing the official term of the State Senators to a term of two years. The General Assembly shall meet on the first Tuesday in January, in every year, unless sooner convened by the Governor.

No. 28. *Resolved*, That the committee on the first article of the Constitution be instructed to enquire into the expediency of providing for a ratio of representation, compounded of cities, counties and population, in the House of Representatives of this Commonwealth.

1st. By the election of one Representative, by the citizens of each city and county.

2d. By a division of the residue of the number of Representatives, according to the population of the several cities and counties.

No. 32. *Resolved*, That the committee on the first article of the Constitution be instructed to enquire into the expediency of amending that article, so that each county, now in the State, shall have at least one member in the House of Representatives.

No. 35. *Resolved*, That the committee on the first article of the Constitution be requested to enquire into the expediency of so amending the sixth section of that article,

as that Senators shall be elected for two years, instead of four, as mentioned in said section.

Also, That the said committee enquire into the expediency of so amending the ninth section of the said article, that Senators shall be divided into two, instead of four classes, so that one half of the whole number of Senators shall be elected every year.

Mr. PURVIANCE, from the minority of the committee to whom was referred the first article of the Constitution, made the following report, which was ordered to be laid on the table, and printed:

That it is expedient so to alter the twenty-second and twenty-third sections of said article, to read as follows, viz :

**SECT. 22.** Every bill which shall have passed both Houses, shall be presented to the Governor; if he approve he shall sign it, but if he shall not approve, he shall return it with his objections, within ten days after it shall have been presented to him, and his objections shall be entered at large upon the journals of the House in which the bill originated; upon which being done, the Senate and House of Representative shall, in joint meeting, proceed to reconsider the said bill; and, if after such reconsideration, two thirds of said joint meeting, upon joint ballot, shall agree to pass the bill, it shall be a law. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the General Assembly, by their adjournment, prevent its return.

**SECT. 23.** Every order, resolution, or vote to which the concurrence of both Houses may be necessary, (except on a question of adjournment) shall be presented to the Governor, and before it shall take effect be approved by him, or being disapproved, shall be repassed by two thirds of both Houses, on joint ballot, in joint meeting, for that purpose assembled.

On motion of Mr. MERRILL, of Union, the resolution offered by him yesterday, authorizing the purchase of 50 copies of Purdon's Digest, was taken up for consideration. The resolution having been read a second time, and the question being on its passage,

Mr. FLEMING, of Lycoming, moved to amend the resolution by striking out the word "fifty" and inserting the words "one hundred and thirty-three".

Mr. DICKEY, of Beaver, asked for the yeas and nays on the amendment.

A short discussion took place, in which the arguments used, when the question was considered on a previous day, were repeated, the motion to amend being sustained by Mr. FLEMING, and Mr. STEVENS, and opposed by Mr. MERRILL, Mr. DICKEY, and Mr. HAYHURST. The question was then taken on the motion to amend, which was decided in the affirmative—yeas 63, nays 58—the vote being as follows :

**YEAS**—Messrs. Ayres, Baldwin, Barnitz, Bayne, Biddle, Bonham, Brown, of Lancaster, Brown, of Northampton, Brown, of Philadelphia, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Indiana, Cleavinger, Coates, Cochran, Cope, Cox, Crum, Cummin, Cunningham, Curll, Darlington, Donagan, Donnell, Doran, Earle, Farrelly, Fleming, Forward, Foulkrod, Gamble, Grenell, Hamlin, Hastings, Helfenstein, Henderson, of Allegheny, Hopkinson, Houpt, Hyde, Long, Lyons, Maclay, Mann, Martin, M'Cahen, Meredith, Overfield, Pollock, Porter, of Lancaster, Reigart, Riter, Russell, Sellers, Scheetz, Shellito, Stevens, Stickel, Swetland, Todd, Woodward, Young, Sergeant, *President*,—63.

**NAYS**—Messrs. Agnew, Banks, Barclay, Barndollar, Bedford, Bell, Bigelow, Carey, Chambers, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Craig, Crain, Crawford, Darrah, Denny, Dickey, Dickerson, Dillinger, Fry, Fuller, Gearhart, Gilmore, Harris, Hayhurst, Hiester, High, Ingersoll, Jenks, Keim, Kennedy, Kerr, Konigsmacher, Krebs, Magee, M'Call, M'Dowell, M'Sherry, Merrill, Merkel, Miller, Montgomery, Myers, Purviance, Read, Ritter, Royer, Saeger, Scott, Seltzer, Serrill, Sill, Smyth, Snively, Weaver, White—58.

The resolution was then further modified, on motion of Mr. STEVENS, and Mr. RUSSELL, of Bedford, and after some additional observations in favor of its passage by Mr. MERRILL, Mr. FLEMING, Mr. M'CABEN, of Philadelphia, and Mr. FORWARD, and a few words from Mr. DICKEY, in opposition, the yeas and nays were demanded by Mr. DICKEY, and the resolution was agreed to—yeas 65, nays 57—the vote being as follows :

**YEAS**—Messrs. Ayres, Baldwin, Barclay, Barnitz, Bayne, Biddle, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Butler, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Indiana, Cleavinger, Coates, Cochran, Cope, Cox, Cummtn, Cunningham, Curll, Darlington, Donnell, Doran, Farrelly, Fleming, Forward, Foulkrod, Gamble, Grenell, Hamlin, Hastings, Helffenstein, Henderson, of Allegheny, Hopkinson, Hout, Hyde, Long, Lyons, Maclay, Mann, Martin, M'Caben, M'Dowell, Meredith, Merrill, Overfield, Pollock, Porter, of Lancaster, Reigart, Riter, Russell, Scott, Sellers, Sheetz, Shellito, Stevens, Stickel, Swetland, Todd, Weidman, Woodward, Sergeant, *President*—65.

**NAYS**—Messrs. Agnew, Banks, Barndollar, Bedford, Bell, Brown, of Philadelphia, Carey, Chambers, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Craig, Crain, Crawford, Crum, Darrah, Denny, Dickey, Dickerson, Dillinger, Donagan, Dunlop, Fry, Fuller, Gearhart, Gilmore, Harris, Hayhurst, Hiester, High, Ingersoll, Jenks, Keim, Kennedy, Kerr, Konigsmacher, Krebs, Magee, M'Call, M'Sherry, Merkel, Miller, Montgomery, Myers, Purviance, Read, Ritter, Rogers, Saeger, Seltzer, Serrill, Sill, Smyth, Taggart, White, Young—57.

The Convention then proceeded to the consideration of the 8th article of the Constitution, as reported by the committee of the whole, without amendment, as follows :

#### ARTICLE VIII—OF THE OATH OF OFFICE. •

“Members of the General Assembly, and all officers, Executive and Judicial, shall be bound by oath or affirmation to support the Constitution of this Commonwealth, and to perform the duties of their respective offices with fidelity.”

The question being on the second reading of the article,

Mr. M'SHERRY, of Adams, moved to postpone the further consideration of this article for the present, and to proceed to the consideration of another report. It would be much better, in his opinion, to act on the reports in succession, in committee of the whole, and then take the whole up together on the second reading, in the Convention. This would save much time which might otherwise be consumed in reconsideration, and in transcribing the articles. The fourth article could now be taken up in committee of the whole.

Mr. INGERSOLL said he always listened with unfeigned deference to all the suggestions of the gentleman from Adams, but he thought the first reading in the House was a premature stage for stopping the consideration of the subject. In the committee of the whole the yeas and nays were not taken, except upon the demand of thirty members. There were many members who did not wish to take part in the discussion of the subject, who were very desirous that their names should be recorded

upon the question. He would, therefore, suggest, as the preferable mode of proceeding, that we should leave every thing inchoate, unfinished, until after we had brought every amendment to a certain stage of maturity, in order that we might then adjourn, and give the people an opportunity to examine our work and express their sentiments upon it. He found gentlemen of experience who did not agree with him in all points, concurring in opinion that we could not be too deliberate and cautious in doing all that we had to do. After an extensive discussion in the committee, the amendments could be reported and read in the House; the yeas and nays recorded upon them, and then laid over, in succession. Then, in his opinion, this body ought to adjourn. About the 4th of July the business could be advanced to the stage he referred to. At that time, the weather would be warm, and, perhaps, the place unhealthy; though in regard to that, he was not certain. He could see no occasion for precipitating the business. The Convention might adjourn over to the spring: and he submitted it to his friend from Adams, that his motion for postponement was premature. Each report, he thought, ought to pass one reading in the House, and an opportunity should be afforded for taking the yeas and nays upon it.

Mr. CLARKE, of Indiana, said he was pleased with the proposition of the gentleman from Adams, (Mr. M'SHERRY). Perhaps the gentleman from Philadelphia county might be mistaken in his views concerning the opportunity which would be afforded to members of recording their names. If the motion of the gentleman from Adams should prevail, they could go from article to article, in committee of the whole. They would then come at what he had wanted at first, but a majority had decided against him, and he always acquiesced in the decision of a majority. The whole of the amendments made in committee of the whole might then be printed: and, when they were taken up in Convention, every member would have an opportunity to move his amendment, and to have the yeas and nays upon it. We can then, (said Mr. C.) according to the suggestion of the gentleman from Philadelphia county, which pleased me very much, adjourn, if we think proper, over the sickly season, until some day in the fall, or perhaps in the spring. Time is of no importance. We ought to proceed in our labors with the utmost care and the deliberation due to their importance, and do nothing hastily. After we have gone through the second reading, we can print the amendments, and send them out to the people; adjourn over, consult our constituents, and return better informed as to their will, and better prepared for final action on the subject. If we were now to go through the second reading, the amendments would be transcribed for a third reading, and it would then be necessary to go back into committee of the whole for the purpose of inserting any new amendment. Thus, we might have to go into committee of the whole, twice on the same article. The plan proposed by the gentleman from Adams, would save the trouble of going back into committee of the whole. For these reasons, he should vote for the motion to postpone.

Mr. M'SHERRY said, it had been his chief object to get the opinions of members. He also approved of the suggestion of the gentleman from Philadelphia, to adjourn over, and meet again in the fall. The motion which he (Mr. M'SHERRY) had now made, would not preclude the question from being taken separately on each article, after the article had gone

through committee of the whole. He hoped the whole body of the amendments would be brought before the Convention together, and after they had passed through a second reading, the Convention could either adjourn over, or go on and submit the amendments in a matured form. He wished to know the opinions of gentlemen on these points.

The PRESIDENT said that in relation to this matter a question of order occurred, on which the Chair had formed an opinion, which he would state, and leave the subject to the decision of the Convention.

The rules, as adopted, provided that all amendments and articles amended should be read three times. In this case, the committee had reported an article without amendment, and the committee of the whole reported the report of the committee without amendment; when the standing committee and the committee of the whole concurred in leaving the old Constitution unaltered, there could be no third reading, because there was nothing to read a third time. The article in that case, would be finally disposed of on second reading. If the Convention should now order this article to a second reading, it would be finally disposed of, and beyond the reach of the Convention. For the original article of the Constitution remaining untouched, there would be nothing to read a third time. According to the direction of the rule, a reconsideration would be the only means of bringing the subject again before the Convention.

Mr. INGERSOLL said this opinion of the Chair presented a question of vital importance. He did not profess to be skilled in these questions, and he hoped that the gentleman from Adams, the gentleman from Indiana, and the several gentlemen from the city, who were more experienced, would favor us with their views in regard to the question stated by the Chair. It was of great importance to know if we were in danger of being caught, not by the design of any one—he made no such imputation—but by the operation of the rule which might place us in a position, from which we might not be able to go back into committee without a vote of two thirds, thereby placing the majority in the hands of the minority, and, in effect, enabling the minority to decide what amendments should be made to the Constitution. He had presented the question thus broadly—he might say, formidably, that others might consider it, and give him the benefit of their opinions. He submitted to the gentleman from Adams, and the gentleman from Indiana, for whose opinions he had learned to have great respect, whether they might not have adopted erroneous views in reference to this matter.

Mr. M'SHERRY explained, that a postponement, for the present, would not preclude the gentleman from calling it up, to-morrow, or at any other time.

Mr. INGERSOLL complained that he was not understood. He said he was satisfied that the subject could be recalled; but, when it was recalled, what would be the condition of it? Could we go back into committee of the whole, without a vote of two-thirds? We had passed through the eighth article of the Constitution on the subject of oaths, and the amendments offered had been negatived by a large majority, as they probably would be again on the call of the yeas and nays. One very interesting amendment offered by the respectable gentleman from Chester, (Mr. DARLINGTON) that gentleman had thought proper to withdraw—and he was sorry for it, as it was a subject of vital importance. That, and



one other, which he had in view were, yet undecided, and ought to be again offered. But the great question was itself undecided. Unless he should hear some better reasons than he he had hitherto heard, he should be in favor of abolishing, and meant to record his negative against all political oaths, though not of official oaths. As at present advised, he should record his vote against the eighth article of the Constitution altogether. We had, as yet, done nothing on the subject. He considered all that passed in committee of the whole as mere conversation, not decision; and that by passing over the article at this time, we were acting prematurely. If it was to be passed by as it is, nothing would be learned. We have had no yeas and nays recorded; we have come in here and conversed upon the subject, which is but one stage beyond a conversation out of doors. It was premature, as he understood the matter, to stop, until we passed an opinion upon it. He regarded it then, as highly important, for gentlemen who were familiar with parliamentary practice, to state in what condition we stood.

Mr. MEREDITH said he was much pleased with the proposition of the gentleman from Adams, which he understood to be this: to pass the respective articles of the Constitution through the committee of the whole body, where there would be a free interchange of opinions, and agree when the amendments are to be made, and have the whole printed in the amended form. We should then have the whole Constitution before us. In respect to the eighth article of the Constitution, many voted against the amendment proposed by the gentleman from Chester, on the ground that there was another article—the bill of rights—to which it more properly belonged, and in which an amendment might be made to meet his views. If we are to have such provision at all, that is thought, by many, to be the proper place for it. We shall come then, after passing all the articles through the committee of the whole, to the second reading, without any embarrassment. After reading the article a second time, there can be no amendment, without unanimous consent, or a recommitment, which requires a vote of two-thirds.

Mr. INGERSOLL said his difficulty was to know what was the first, and what the second reading.

Mr. MEREDITH explained that the first reading was in the committee of the whole, and the second reading after the committee of the whole had reported the amendments. Perhaps, the general sense of all would end in acquiescing in the propriety of the rule in which the question had originated. If the committee should succeed in passing the article through to a second reading, without amendment, there would be no necessity for reading it a third time, and the question should be taken on its adoption. If, however, the course suggested by the gentleman from Adams should be pursued, why, then, gentlemen would have time to reflect and deliberate on the subject, and we could proceed this morning to the consideration of the fourth article as in committee of the whole.

Mr. INGERSOLL wished to ask the gentleman who had just taken his seat, whether, when any article of the Constitution had passed through a second reading, and was not amended, it was unattainable for any delegate, except through the instrumentality of two-thirds of the body, to obtain a reconsideration of the question?

Mr. MEREDITH replied that the opinion of the Committee on rules was,

and they had so provided, that the amendments which might be offered to each article, must be proposed only on the second reading of it, as was done in the case of bills, in all parliamentary bodies. The better course would have been to have framed the rules so as to provide that the question need not be taken on those articles to which the committees had made no amendments. This conclusion he had come to only on reflection, since the committee on rules had reported. It appeared to him, that it should be generally considered hereafter, that if an article had gone through a second reading, amendments could not then be offered to it, without the general and unanimous consent of the Convention. If the consideration of the article should be postponed for the present, time for reflection would be given, and an alteration might be made in the rule, if it should be deemed necessary. He thought that the doubt suggested by the Chair as to the construction of the rule was a sound one, and one arising out of the manner in which the rules had been reported.

Mr. EARLE remarked, that if it was supposed that the construction put by the Chair upon the rules, which appeared to him to be the correct one, would lead to any inconvenience, the shortest method of avoiding that inconvenience would be, to bring forward a rule—let it lie on the table one day, and then adopt it. He was decidedly in favor of the course suggested by the gentleman from Adams, (Mr. M'SHERRY) for the reasons which had been alluded to, as there would be great uncertainty in the minds of members as to the article of the Constitution to which any particular amendment belonged. In the committee upon which he had been placed, there was a difference of opinion among the members as to whether certain amendments pertained to this article, or to the other article of the Constitution. Now, he thought, that that inconvenience ought to be avoided. Doubtless, much inconvenience and a great waste of time would be avoided, and every member would understand what he was about, if we took up the Constitution in general, and allowed members to propose amendments to it. By this means, we should be able to learn what changes are to be made by the Convention.

Mr. CUNNINGHAM said that he was at a loss to understand how it was, that unless an amendment was made to any article, the Convention could not proceed to its third reading. He thought that the same course would have been pursued in reference to the reading of these articles as in respect to bills. That was the understanding of the committee when they reported the rules. The rule which says that amendments shall be read three times, corresponds with the rule of the Legislature concerning joint resolutions, &c. He maintained that all articles must be read three times as well as the amendments of those articles. Then why make the distinction now? The fact was, that the whole of this difficulty had arisen from the Convention having begun their business in the wrong way. Here we had been in the habit of reporting articles, without amendments, and had gone on to consider them under the rule as if the amendments were articles. He adverted to the practice of the House of Representatives for the purpose of showing that what had been done here was not in accordance with it. The several articles ought to be treated precisely as if they were bills. He conceived that it would be better to postpone the matter for the present, and bring in all the Constitution together, with the various pro-

posed amendments—read it, and then take it for a second reading, and act upon the amendments.

Mr. MERRILL did not wish to interfere with the rules of order; but, he would suppose that all the amendments proposed were to be rejected, as in committee of the whole: what would be the question? Would it not be—will the Convention agree to the report of the committee?

Mr. CUNNINGHAM said that no question would be taken on the report of a committee of the whole, unless an article were negatived. When a committee refuses to pass a bill, for instance, then the question was taken on agreeing to the report of the committee of the whole.

Mr. MERRILL desired to know what would be the effect of this state of things. Suppose the committee of the whole had refused to agree to any amendments, and the Convention had agreed to the report of that committee of the whole: would the effect be to leave the Constitution as the Constitution of 1790, and would the several articles be submitted to the people as our work? In that case, do we enact a whole Constitution, taking effect from this time? He wished to be informed on this point. He thought that we had nothing to do but to pass such amendments as we might think necessary, and submit them to the people. The Constitution would then stand as the Constitution of 1790, except as regards the amendments which might have been adopted by the people. He was opposed to doing any thing to destroy the force and effect of the old Constitution, or to doing any thing more than propose such changes as might be agreed on as amendments to that Constitution, believing that they had no power to re-enact and make more solemn the Constitution of 1790. If they were to be called on to re-enact the old Constitution, or make a new Constitution, they were going beyond their commission. They had passed the eighth article without amendment, through committee of the whole, but they had no authority from the people to say that this article should remain. It would, if not amended, stand unchanged, and ought not to be submitted to the people.

Mr. MEREDITH observed that if it was the wish of the Convention that the articles should be read a third time, it was easy to declare, that that should be the rule in future.

Mr. INGERSOLL felt satisfied from the observations made by gentlemen around him, that the suggestion of the gentleman from Adams, was the true mode of proceeding. As all around him seemed to concur in opinion on the subject, he would, after this question was disposed of, move to re-commit the rules for amendment, in order that we might not, after weeks spent in the consideration of an article, be caught—and he did not use the word in any offensive sense—in a situation which might be equally unexpected and embarrassing.

Mr. MEREDITH remarked, that by the course of proceeding in making or considering amendments to the Constitution in a committee of the whole, and then requiring a subsequent action, a good opportunity was afforded for reflection and deliberation, as a member could, when the amendments should be taken up in the Convention, change his vote, provided that his mind had undergone any change. There ought to be the same deliberation as in passing bills, and for that purpose, the rule required three distinct readings. The operation was perfectly simple. A word in reply to the gentleman from Union (Mr. MERRILL). The com-

mittee of the whole had reported the 8th article without amendment. The Convention, on the second reading, would take the question on that report. If any gentleman should move to strike out the article, that would be a proposition to amend the Constitution. Should the House agree, and strike out the article, it would be an amendment of the Constitution: if not, the Constitution remains as it is. Thus the articles which are not amended, will remain unacted on, and retain their full force; in virtue of their original introduction into the Constitution of 1790. He was indifferent as to the course now pursued; whether a motion were made to recommit the rules, or a new rule were offered. Perhaps the best mode would be to recommit.

The motion to postpone the consideration of the eighth article was then agreed to.

Mr. INGERSOLL then asked and obtained leave to make a motion to recommit the subject of the rules to the committee on rules, for the purpose of making such alterations and additions, as they may deem expedient, in reference to the several readings of amendments. He did not care what the rule was, so that it could be understood.

Mr. Cox said that if he was not mistaken, the report was from a select committee, which had been raised on the subject, and, if a select committee, it had been discharged. If not, he thought that there was no cause for reference of the rules to a committee; but a simple resolution might be offered, and there would be a saving of time by adopting that course.

Mr. INGERSOLL: The Chair might constitute a new committee.

Mr. DUNLOP intimated that he would submit a resolution proposing that any article of the Constitution may be read a third time.

Mr. INGERSOLL remarked that this was a matter of some importance, and it seemed to him that it would be better to proceed in the ordinary way, and take the action of a committee on the subject, who would deliberate and report to the Convention for its sanction. This difficulty had been suddenly sprung upon us, and there seemed to exist some differences of opinion. He considered it immaterial which way the rule was altered, but he was in favor of a committee. There was an apt but a trite adage—"the longest way round is the shortest way home". They might, to be sure, act by resolution, but he preferred that the rules should be referred to a select committee, as the more proper course.

Mr. MEREDITH hoped the gentleman from Somerset (Mr. Cox) would withdraw his opposition, and let the subject go to a select committee. He thought there would be this advantage in doing so. The phraseology of the rules might require a little alteration, and the committee on rules would be able to report to-morrow morning,

Mr. Cox did not mean to be understood as making any opposition to the reference. But if the subject was to be committed, he would wish the motion to be so amended as to refer it to the same gentlemen who constituted the former committee on the rules, and that they be a standing committee on the rules, as there might be other alterations found necessary.

The PRESIDENT said the same gentlemen would be appointed.

Mr. CLARKE, of Indiana, thought that the course of the gentleman from Philadelphia, was the best course to be pursued, and time would be saved by it.

Mr. READ suggested an amendment to the resolution—that the committee be instructed, also, to revise the seventh rule.

Mr. INGERSOLL accepted the amendment.

Mr. CLARKE, of Indiana, said that it would be necessary to refer the 30th rule as well as the 7th.

Mr. INGERSOLL then moved that the 7th and 30th rules be referred to a select committee of five members, which was agreed to.

*Ordered*, That Messrs. CHAMBERS, DICKEY, PORTER, of Northampton, MEREDITH, and BANKS, be the committee for the purpose expressed in the said motion.

#### FOURTH ARTICLE.

On motion of Mr. READ, of Susquehanna, the Convention then proceeded to consider the fourth article of the Constitution; and the Convention having resolved itself into committee of the whole, Mr. DENNY in the chair, the report of the committee was read as follows:

That they have had the subject under consideration and have agreed to report the first and third sections of the said fourth article of the Constitution without any alteration and the second section of said article with one amendment, viz:

To strike therefrom the words “two-thirds”, and insert in lieu thereof, “a majority”, so that the section may read as follows, viz:

“SECT. 2. All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation. No person shall be convicted without a majority of the members present.

The report of the minority of the committee was also read, as follows:

The minority of the committee to whom the fourth article of the Constitution was referred, respectfully report:

That they have had the subject under consideration, and report the said article without amendment.

JAMES CLARKE,  
JAMES C. BIDDLE,  
ANDREW BAYNE,  
SAMUEL CLEAVINGER.

Mr. CLARKE, of Indiana, then moved that the committee proceed to consider the first section of the fourth article which was agreed to.

The 1st section was then read as follows:

“SECT. 1. The House of Representatives shall have the sole power of impeaching”.

Mr. CLARKE stated that the committee had unanimously concurred in this section, and, no amendment being proposed, the question was taken on agreeing to this section, and decided in the affirmative.

The second section was then read, as follows:

“SECT. 2. All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the Senators present”.

Mr. CLARKE, of Indiana, said that this was the article on which the committee divided. The only difference of opinion there, among its members, was—as to the insertion of the word “majority”, instead of the words, “two-thirds”, which is the language used in the present Constitution. His own vote would ultimately depend upon the



decision which might take place on the other articles of the Constitution. With respect to the Judges, it was, as yet, uncertain, what the Convention would do. If the Convention should continue the tenure of office of Judges and Justices for life, or during good behaviour, then he certainly would not go with the minority for the principle of requiring twenty-two members of the Senate to sustain an impeachment. But, if the Convention agreed to limit the tenure of office of Judges and Justices to any reasonable number of years, then he was for retaining two-thirds of the Senate to sustain an impeachment. Much had been said about the independence of the judiciary. There was no man in this Convention, nor in the Commonwealth, probably, that had a higher opinion of the Judiciary of Pennsylvania than he had. Nor, was there any man there, or elsewhere, who would be more ready to guard that independence which was necessary to enable them to do justice between man and man, "without fear, favor, or affection".—But, he had thought, and did still think, that life-tenure, or holding for good behaviour, was not necessary to independence, as a man holding an office for a short period, could be made as independent as the State required. If we limited the duration of office, then, he thought, to make them independent, we should present the two-thirds principle, that they should not be lightly impeached or condemned. And, feeling the consciousness that they were liable to the condemnation of that number of men, they would be free to exercise the duties of their offices. But if, on the other hand, the tenure of office was left as it is, we well know the evils that must ensue. We knew the difficulties that had taken place in Pennsylvania, where so many of our Judges had been arraigned, and, through the intervention of the House of Representatives, brought before the Senate. He was of opinion that many of our Judges had been bargained for, as it was called. After the committee had passed a vote of condemnation on a Judge, the proceedings were held over him *in terrorem*, and at the end of six months, he would send in his resignation, And, in that way, he would avoid the disgrace.

If, then, the tenure of office was to be left as it now is, he would, certainly, be in favor of a "majority" sustaining an impeachment. He had made these few observations merely to say to the committee that it was not his wish that this question should be finally decided at this time. He would give gentlemen notice that when this subject should come up again, in the House, he would, if no one else did, make a motion to postpone the further consideration of it, till after the articles on the Judiciary should have been considered.

Mr. BIDDLE, of the city, said, Mr. Chairman—I also am one of the minority of the committee who reported on the 4th article of the Constitution; but while I concur in the result at which the gentleman from Indiana (Mr. CLARKE) has arrived, I do so for reasons different from those which have influenced his judgment. That gentleman expects that the tenure of judicial appointments will be changed. I, on the contrary, both hope and trust that no alteration will be made, firmly believing that the independence of the judges is intimately connected with the tenure by which they hold their offices. The present question affects their independence in a different way. Heretofore on a trial in the Senate, on an impeachment, the concurrence of two thirds of the Senators has been required for the conviction of a public officer. It is now proposed to make

the assent of a bare majority sufficient for that purpose. In all cases, this is objectionable, but especially so in its operation on the judiciary. There is no department of the Government in which all are so deeply interested. It embraces within its protection and control the highest and the lowest—the richest and the poorest—the most popular and the most unpopular—even to the degraded criminal, and the outcast from society. It is felt in the active walks of life, and it extends its security over the shade of retirement. The organization of the executive and of the legislative departments may be modified, and the change will be only partially felt by the community. But with the judiciary it is different. It pervades all society, and the sphere of its influence is coextensive with social order. While its functions are thus important, it is the weakest of all the departments. It possesses no patronage—it dispenses neither favors nor rewards. While on the one hand, it is thus unsupported; on the other, it is peculiarly exposed to assault. What, sir, are the duties of judges? It is their province to pronounce between the conflicting claims of angry litigants—sometimes of popular party leaders, or even of parties themselves. In every case there is a successful and a defeated party. The former feels no gratitude—he feels, and he feels truly, that he has obtained a right—justice, and no more;—while the latter too often considers himself personally injured, and awaits his opportunity of gratifying his animosity and satisfying his revenge. All law is restraint—and without law there is no liberty, save that liberty which consists in indulging every one in the gratification of his licentious and wayward passions and selfish interests, regardless of the rights of all others. It is the duty of judges to uphold law—to enforce restraint—to compel submission. The very nature of their duties exposes them to the vengeance of ill-disposed men. Shall no shield be extended over them for their protection? Let us consult the history of impeachments in Pennsylvania, and yield our attention to the lessons of experience. The judges of the Supreme Court were brought before the Senate on articles of impeachment preferred against them by the House of Representatives. A SHIPPEN, a YATES, and a SMITH, were thus tried—and a majority of two Senators voted for their conviction—(guilty, 13; not guilty, 11.) Thus these judges whose integrity, uprightness and learning are now unquestioned, and whose memories are justly cherished, in a time of party excitement narrowly escaped conviction and its consequent infamy. It was on the occasion to which I have just referred, that Judge BRACKENRIDGE, the only one of the judges who belonged to the dominant party, impelled by an honorable feeling, wrote a letter, stating, that although he was not on the bench at the time the transaction occurred which had drawn the legislative displeasure on his brethren, he thought it right to say that he approved of their conduct, and, if present, should have concurred in their course. He was not spared. The spirit of party injustice prevailed. Two thirds of both Houses of the Legislature addressed the Governor, requesting his removal. The Governor was firm, and would not give his consent to so unjust a measure. A committee called on him to remonstrate; they urged that the constitutional provision that the Governor *may* remove on address, meant *must*. Governor McKEAN then gave his celebrated answer, “Gentlemen, on this occasion, *may* means *won't*.” In the case of Judge ADDISON, who had been tried on an impeachment, convicted, removed, and declared in-

Mr. SERGEANT (President) did not rise to speak on the subjects brought to the view of the committee, by the several gentlemen who had already spoken, but merely to state the reason why he thought the committee ought not to rise. It appeared to him that this article embraced a single subject, and that subject might, and ought to be, considered by itself; and, independently of the connexion it was supposed to have with the mode of appointment or duration of office. It had been spoken of as having application only to judicial officers, but that was not the language of the Constitution. All officers are liable to impeachment—all civil officers are liable to impeachment—the Governor, and all other civil officers shall be liable to impeachment for any misdemeanor in office. Now, sir, what is the object of this article? It is not simply to get rid of any civil officer, neither is it simply to inflict punishment upon a criminal—there are other methods of criminal proceeding, and for the most part, official misdemeanors may be treated according to the ordinary course of law. But it is meant to be a solemn proceeding, in great and solemn cases, and in such only is the power to be exercised. In preserving this power in the Constitution, it is not intended to be applied to every case of official misdemeanor, for many of which ample provision is made in our criminal code—cases of oppression or malconduct in office are, for the most part, sufficiently provided for in our general law. But, the power is here reserved to exhibit justice in her most imposing attitude and in her most elevated character, and to show, by its application to cases of high and great official delinquents, that none are above her reach; in such cases of violation of official duty, this provision is to hold up the perpetrators as a solemn example of the manner in which justice will pursue them. Now, sir, what is the question? Why, it is, will you or will you not have a tribunal for such occasions and for such a trial. Will you leave the Constitution without a provision of this kind? Will you dispense with the means of bringing to appropriate justice your highest officers of the Government? or will you permit punishment to be inflicted only on the humblest individuals, and allow the higher to escape the peculiar punishment they deserve—the mark of reprobation they have justly incurred. In case of conviction before this tribunal, what are your punishments? Removal from office, and they may extend to disqualification from office, which are punishments of extraordinary severity. He thought that every man who had any respect for himself, for his name, and for those who were to come after him, must shrink from such punishments with instinctive dread, and the only question then was, how this tribunal was to be constituted. The question was not to whom shall you apply this provision? but it was this: will you have the provision in your Constitution, and if you will, how shall your tribunal be constituted for the trial of these offenders, who are to be hurled from office as men unworthy to be there, and stigmatized as men unworthy ever again to be employed in the public service? He thought we were now prepared to go on in the consideration of this subject, and that we would only be led away from it by connecting it with any other. It might not, on this question, be strictly in order to go into a discussion of any other matters, yet the division of opinion exhibited here, and the views presented to this committee, brought to his mind matters of very great importance. The argument of some gentlemen is, that if you alter the mode of appointment, and change the duration of

office, they will be satisfied with the worse constituted tribunal, that is, a tribunal requiring two thirds to decide. In his judgment, this was a distinction that imported more than those might imagine, who had entertained it. They seemed to mean that in proportion as the office was reduced in dignity, they would have a higher sentence, that is, a sentence of a greater number. He should think otherwise—that the reverse was the true view. But the question now is, how shall this tribunal be constituted to apply to either or to both? There was no ground for discrimination. Will you have the decision of those who are to stamp a man forever with infamy made by a bare majority, or will you require two thirds? The adoption of the majority for the two thirds vote should not take place, unless for good and sufficient reasons. This applied to every part of the Constitution. No change, he thought, should be made but for good cause. He believed, however, that the contrary could be shown—that the reasons why the majority rule should not be adopted, but the Constitution, in that respect, remain unchanged, were plainly and amply sufficient. Was it not deserving of consideration that the tribunal for the trial of all crimes, from the most petty case of assault and battery to the highest crime, was so constituted by the law of the land that it required the concurrence of the whole twelve men, under the guidance of an enlightened judge, to convict a citizen. Nay, he could not be put upon his trial at all, till there had been a finding by a grand jury. Two juries must concur. The Senate of Pennsylvania, in the case of impeachment, are both judge and jury. They are to judge, and decide in the case, and their condemnation is of the most destructive character to him on whom it falls. Will you then, require, for the condemnation of the high officers of our Government, but a bare majority to convict, when the man who commits an assault and battery, to be punished only with a fine, is tried before a tribunal, of which the whole must agree to convict him? He hoped this view of the subject would have its full weight with the Convention. So fully impressed was he with the correctness of this provision, requiring two thirds to convict, that were he making a new constitution he should not think of making a smaller number sufficient. But this was not all. Who were to be the accusers of these officers? The Representatives of the people of Pennsylvania, the House of Representatives of the Commonwealth. The meanest criminal in the land cannot be put upon trial unless by a grand jury who are of opinion he should be put upon trial; but your Legislature orders these officers to be put upon trial, and that too, before a tribunal intimately connected with that body which is the accuser; and the culprit is there to be tried without any intermediate step where the proceedings against him may be arrested, where the trial may be put aside, or where, by a pause, justice may have time to overtake and overcome passion and error. Then, again, passing over for a moment the infinite inequality between the accusers and the accused; the feebleness of himself compared with the House of Representatives, his accuser; passing that over, where is he to be tried? In a body, acting in the character of a judicial body, it is true, but nevertheless a political body, under the Constitution, properly, because necessarily, made a judicial body, for the trial of these cases? but having no other judicial attribute. This body, too,

has a strong political connexion with the body which is the accuser, and is influenced by the same causes, whatever they are, which have influenced the House of Representatives. The Constitution should, as far as possible, provide means of rescuing these high officers from oppression, and from any tide of feeling which might happen to set against them; and he would ask gentlemen whether a bare majority could be deemed a sufficient protection? He would put it to the members of this Convention, many of whom have held official situations, and all of whom are worthy to hold them, whether they believed a bare majority of the Senate was a sufficient safeguard for officers whose offices made them liable to unjust reproach, who were in most cases the objects of jealousy and envy, because they occupied places which so many desired; and whose downfall and destruction would open the way to the gratification of others? He would appeal to any member of this body, whether he could lie down to rest in peace if a strong political agitation prevailed, if the majority of the people of Pennsylvania happened to form a party adverse to him, if a strong feeling existed against him—would he, should he consider himself safe on the strength of a bare majority of the Senate? Could he, in cases where the public mind was strongly opposed to him, from political or other causes, consider himself secure with no other protection than a bare majority of the Senate. A majority of what? A majority of men; let us never forget *that*. He had due confidence in those who were honored by election to the Senate—he would regard them as qualified for their situations, upright and virtuous, until it should otherwise appear; but he was obliged, at last, to come to the conclusion that they were men, and that each and every of them, as sure as he lives, and as sure as he is to die, so sure may he be, that he is liable to be led into evil. In forming a Constitution, then, they ought to take this into consideration. He would ask any gentleman who had any experience with the character of mankind, and he would ask the gentleman from Indiana, (Mr. CLARKE)—who had been a long time in public employment, and connected with the public business of our State, and largely conversant with men, and with affairs—he would ask him, whether he should think that a high officer of the Government ought to be subjected to ruin, to the destruction of his happiness as a man, and of his reputation as a citizen, by the bare voice of a majority of a body which might be hostile to him, politically or otherwise. It appeared to him that the question was a simple one, and because it appeared so to him, he hoped the committee would not rise, but that gentlemen might give their views to the Convention, and come to a conclusion. If they could satisfy him that he was wrong, he was willing to reconsider his course.

Mr. CLEAVINGER said, being one of the minority of the committee who made report on the fourth article of the Constitution that has given rise to the present discussion, I feel it my duty to state, briefly, the considerations which have operated on my mind in favor of the article and section as it now stands. Some ideas that I intended to present, have been so ably and fully brought before the Convention, by the honorable gentleman who presides over this body, that I should only weaken the matter by presenting them again. I shall, therefore, confine myself to certain arguments, urged in favor of the proposed amendment. In my view,



they have been too much circumscribed and limited, by confining the operations of impeachments to judicial officers only, when the Constitution extends it to the "Governor and all other civil officers under this Commonwealth". In my opinion, this high court of judicature was created for the trial of all who offend the majesty of the law, whether they be appointed or elected. But let us examine the arguments of the gentlemen, as they apply to judicial officers; they say, if the present Constitution is to continue as it now stands, they will vote for making a mere majority of the Senate, sufficient to convict—but should the term of office be limited to a certain number of years, then they will be for retaining the two thirds, as at present.

What, sir! shall the term of office be the criterion by which we determine the guilt or innocence of the party accused? Shall the Senate, the august Assembly of this Commonwealth, when deliberating under the solemn obligation of an oath, first ascertain the facts, whether the person under trial be a life officer or not, before they can pass upon his guilt or innocence? I put it to you, sir, and I put it to gentlemen of this committee whether the principles of justice and the faithful administration of the laws ought not to be conducted on other and higher principles.

Sir, is not an impeachment in some measure, in the nature of a criminal proceeding in our courts of law? If so, what is the humane principle cherished by our free institutions? and I would ask this committee, what is the nature and spirit of that system, hallowed by antiquity—(if I may use the expression) to which all freemen cling with such unyielding tenacity? I mean the trial by jury! Why sir, if the lowest individual in the community be arraigned there,—and after a fair and patient investigation, a doubt remains on the mind of a single individual of the panel, it must operate in favor of the accused, and produce an acquittal.

Would this committee then wish to put our most elevated officers in such a situation, where a mere majority, yes, the casting vote of a single individual, might consign the accused to infamy and ruin? yes, ruin; for although their authority does not extend to the infliction of a fine or corporal punishment, yet, to the ingenuous mind, it is far worse; for it deprives him of the rights of a citizen, and induces the finger of scorn to be pointed at him through life.

I feel the full force of the argument presented to the committee by the gentleman from the city, in his usual pointed manner, and I fully concur with him in the vital importance of an independent judiciary, and as a co-ordinate branch of the Government, none ought to stand higher in the affections of the people. Yet, when he and I shall come to determine what will be the grand incentive to that independence, probably we may differ in opinion. Sufficient for me is it to say, that matter is not now fairly before the committee, but the establishment of such a tribunal as may protect the officer in the faithful discharge of his duty, and arrest and punish him when disregarding it, however high he may be in authority.

Mr. EARLE concurred entirely in opinion with the two last gentlemen who addressed the committee, as to the number which should be required to convict an officer in case of impeachment, and he would not permit a bare majority to convict in any case of this kind. If it had been the case in

our National Government, that a majority could, on impeachment, convict an officer, the majority of the United States Senate had been lately of such a temper, that if the House of Representatives had been of the same political opinion, the President of the United States would have been impeached, condemned, and removed from office, for an act which he performed with the most patriotic intentions, and in accordance with what he believed to be his duty as a public servant.

Knowing to what heights party violence carried men, he should hesitate long before he would place in the hands of a bare majority the exercise of so dangerous a power. But does not every argument brought forward to show the propriety of requiring two thirds to sustain an impeachment, show also, the utter inutility of impeachment, as a mode of removal of a public officer. THOMAS JEFFERSON, long since, placed this in its proper light, when he said that impeachment did not even answer as a scare-crow.

He (Mr. E.) did not concur in the opinion expressed by some of the gentlemen, that the House of Representatives often brought on impeachments for frivolous offences, and that those who were the accusers of the officer in the case, were his enemies. The majority of the House of Representatives did not generally move against a public officer with a desire to convict him, but rather to acquit him. In almost every instance, the majority in the House of Representatives, who have voted for impeachments of judges, have been the friends of those judges. In cases of impeachments, poor and humble men are generally the prosecutors. They apply to a member of the Legislature, and that member either does not bring the case to the notice of the body, or does so, for the purpose of acquitting the judge from the charge which has been brought against him. Yes, sir, your judges escape from punishment for the highest misdemeanors, and your poor men are frequently convicted on the slightest evidence of guilt. You cannot convict a judge on strong evidence, but you can convict a poor man on the slightest testimony. Of this, Mr. E. had some evidence, for he had lately seen a poor man convicted, and sent to the penitentiary, merely on the evidence that there was found a track in the snow corresponding with the size of his foot, yet you may prosecute a judge on impeachment, for being idle, incompetent, or base, and it all falls to naught, and the judge escapes. Although a judge may favor an individual of his party, or a personal friend, he must not be called to account for it, because he acted under an involuntary bias of mind. Although he may decide a case palpably wrong, there is no punishment for him. Although he is indolent, and although the public business is delayed, you must not touch him; because his innocent children might be reproached, in consequence of their father's not having been one of the most industrious men in the world. In this way the people must suffer, because it is viewed as almost a crime to impeach a judge. All this shows that impeachment is not the true remedy, and that there must be another mode of redress—that of making public officers responsible to the people, at stated and limited periods, so that judges, and other officers, may have their offices taken away from them, when the public good requires it, and others substituted in their places without having attached to them any imputation of moral or other guilt. The present Constitution provides for the removal of

judges, in certain cases, upon address of the Legislature to the Governor, for causes not sufficient for impeachment, but it was an endless undertaking to attempt to get rid of an officer in that way, as a dispute always arose on the question, whether the charges were sufficient for impeachment. And, if impeachment were resorted to, it was almost a matter of impossibility to get a sufficient number of the Senate to agree, upon any one charge, to remove an officer. Two-thirds, or three-fourths, or the whole Senate, may vote for his conviction, yet, if they do not all agree on the same point, the judge retains his place. There have been cases in this Commonwealth where more than two thirds of the Senate have voted to convict a judge, and yet he escaped removal.

Nay, there have been cases where nearly the *whole* Senate have voted to convict a judge; yet he escaped;—and all this because they did not all vote together on any one article of an impeachment consisting of several articles. Now then, he thought it must be evident to every one who had been an observer of what had taken place in this State, that impeachments were wholly useless. He should vote in favor of two thirds, however, because he was unwilling that any public officer should be subjected to condemnation on a charge involving infamy, by a majority of a body which always had been, and always would be influenced, more or less, by political feelings.

Mr. BIDDLE would take occasion briefly to answer some arguments from the other side of the House in relation to what was called by gentlemen so emphatically, *the people*. From what had been said about the people one would suppose them to be some particular portion of the community disconnected from the rest. He would enquire if this was the case? Were the rich to be excluded? Were the aristocrats, as they were called by some, to be excluded? Were the females to be excluded? Mr. B. knew of no such distinctions; all ought to be embraced in the same family, the rich, the poor, males and females. These insidious distinctions were calculated to throw a firebrand into the community and to do great evil. He would yield to no man in the support of the true interests of the people. But he believed the independence of the people depended, in a great measure, on the uprightness and independence of the judiciary. Shall we, instead of having judges looking with an eye single to what was right, just and proper, have them looking to the relative popularity of a particular measure they were about to decide upon? Would you have them looking to the effect the decision of any particular measure was to have upon their popularity before they would decide it? It was because he desired to have the minds of our judges unbiassed and uninfluenced in any manner that he would remove from them all temptation, and put them in a situation not to be operated upon by any under influence, so that they might do simple and exact justice to all. As he did not longer desire to detain the committee, he would conclude by quoting a remark of Chief Justice MARSHALL, which should be referred to and revered by every freeman, which quotation was “that the greatest scourge which an angry heaven could inflict upon a sinning people was an incompetent, a corrupt, or a dependent judiciary”. Then let us guard our community against this scourge, so, that although the storm may rage without, although the executive may threaten, and the Legislature de-

nounce, still we may be left in the enjoyment of our firesides, and in the full possession of our rights, civil, religious, and political.

The committee then rose, reported progress, and obtained leave to sit again to-morrow.

The Convention adjourned.

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FRIDAY, MAY 19, 1837.

The PRESIDENT laid before the Convention the following communication from the Secretary of State and the Auditor General of the Commonwealth, which was ordered to be laid on the table, and printed.

SECRETARY'S OFFICE, *Harrisburg*, May 18, 1837.

SIR: In compliance with a resolution of the Convention over which you preside, we have the honor to transmit the enclosed tabular statement, showing the names, official stations, time of appointment, annual salary, and amount of per diem pay and mileage received within the last year, of each Judge in the Commonwealth. The information relative to the justices of the peace, aldermen, and other judicial officers, requested by the same resolution, will be submitted as soon as the steps which have been taken to obtain it, shall enable us to do so.

We are, sir, with great respect,

Your obedient servants,

THOMAS H. BURROWES,  
NATHANIEL P. HOBART.

Hon. JOHN SERGEANT,  
President of Convention, &c.

TABULAR STATEMENT.

JUSTICES OF THE SUPREME COURT.					Annual salaries.	Per diem pay and mileage.
John Banister Gibson,	-	Chief Justice,	-	Commissioned May 18th, 1827.	\$2,666 67	\$1,092 00
Molton C. Rogers,	-	Associate,	-	" April 15th, 1826.	2,000 00	1,196 00
Charles Huston,	-	"	-	" April 17th, 1826.	2,000 00	808 00
John Kennedy,	-	"	-	" Nov. 23d, 1830.	2,000 00	1,420 00
Thomas Sergeant,	-	"	-	" Feb. 3d, 1834.	2,000 00	704 00
JUDGES OF THE DISTRICT COURT FOR THE CITY AND COUNTY OF PHILADELPHIA.						
Thomas M'Kean Pettit,	-	President,	-	Commissioned April 22d, 1835.	2,000 00	
George M. Stroud,	-	Associate,	-	" March 30th, 1835.	2,000 00	
Jeel Jones,	-	"	-	" April 22d, 1835.	2,000 00	
PRESIDENT AND JUDGE OF THE DISTRICT COURT FOR THE CITY AND COUNTY OF LANCASTER.						
Alexander L. Hays,	-	-	-	Commissioned May 1st, 1833.	2,000 00	



COURTS OF COMMON PLEAS.

JUDGES.				Judicial districts.	When appointed	Annual salaries.	Per diem pay and mileage.
Edward King, President, Archibald Randall, Associate, John R. Jones,	-	-	-	1st district, embracing Philada. city and county, do.	April 27, 1827. Jan. 23, 1836. March 12, 1836.	\$2,000 00 2,000 00 2,000 00	
	-	-	-	2d district, embracing Lancaster county, do.	August 8, 1836. Dec. 3, 1819. April 2, 1822.	1,600 00 140 00 140 00	
	-	-	-	3d district, embracing  Berks, do. Northampton, do. Lehigh, do.	April 1, 1836. July 17, 1829. May 22, 1830. Jan. 22, 1799. Jan. 28, 1802. Sept. 9, 1815. Nov. 11, 1823.	1,600 00 140 00 140 00 140 00 140 00 140 00 140 00	\$46 20     27 00
John Banks, President, Matthias S. Richardson, Associate, William Darling, John Cooper, Daniel Waggoner, John Fogle, Jacob Stein,	-	-	-	4th district, embracing  Huntingdon, do. Mifflin, do. Centre, do. Clearfield, do.	April 20, 1826. Dec. 1, 1810. July 10, 1826. Dec. 11, 1793. Nov. 15, 1828. Jan. 8, 1809. Dec. 10, 1827. April 29, 1826. June 19, 1826.	1,600 00 140 00 140 00 140 00 140 00 140 00 140 00 140 00 140 00	107 92 42 00 42 00 8 40 8 40 48 00 9 00
Thomas Burnside, President, Joseph M'Cune, Associate, Joseph Adams, John Oliver, David Reynolds, Isaac McKenney, Jacob Kryder, Moses Boggs, Hugh Jordan,	-	-	-				

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NAME.	DATE.	AMOUNT.	DATE.	AMOUNT.
Edward Herrick, President,	Oct. 19, 1818.	1,000 00	Oct. 19, 1818.	122 70
William Thompson, Associate,	Jan. 1, 1806.	140 00	Jan. 1, 1806.	75 60
Davis Dimock,	Dec. 10, 1830.	140 00	Dec. 10, 1830.	40 50
John M'Kean,	May 16, 1821.	140 00	May 16, 1821.	10 50
Jonathan Stevens,	May 6, 1828.	140 00	May 6, 1828.	12 60
Ira Kilburne,	March 6, 1824.	140 00	March 6, 1824.	
John Ryan, Jr.	Feb. 10, 1837.	140 00	Feb. 10, 1837.	
Thomas H. Baird, President,				
Boyd Mercer, Associate,				
John Hamilton,				
Charles Porter,				
Samuel Nixon,				
Ann M'Clelland,				
Samuel Black,				
Jesse Darlington, President,				
Cromwell Pearce, Associate,				
Jesse Sharp,				
Joseph Engle,				
George Smith,				

JUDGES.				Judicial districts.	When appointed	Annual salaries.	Per diem pay and mileage.
John Lefevre, Associate,	-	-	-	Cumberland,	Jan. 8, 1836.	\$140 00	12 60
John Junkin, "	-	-	-	Perry,	May 31, 1832.	140 00	9 00
Robert Elliott, "	-	-	-	do.	March 23, 1836.	140 00	3 30
Benj. Kepner, "	-	-	-	Juniata,	Sept. 19, 1831.	140 00	6 00
Daniel Christy, "	-	-	-	do.	Sept. 20, 1831.	140 00	
				10th district, embracing			
Thomas White, President,	-	-	-	Westmoreland,	Dec. 13, 1836.	1,600 00	36 10
John Lobinger, Associate,	-	-	-	do.	Feb. 13, 1821.	140 00	34 10
Thomas Pollock, "	-	-	-	Indiana,	May 16, 1821.	140 00	67 60
Samuel Moorhead, Jr. "	-	-	-	do.	Oct. 28, 1830.	140 00	30 80
Robert Mitchell, "	-	-	-	do.	May 30, 1836.	140 00	
Joseph Rankin, "	-	-	-	Armstrong,	May 11, 1829.	140 00	54 00
Robert Orr, "	-	-	-	do.	Jan. 17, 1834.	140 00	
George Roberts, "	-	-	-	Cambridge,	Oct. 24, 1807.	140 00	5 40
John Murray, "	-	-	-	do.	May 2, 1826.	140 00	9 00
				11th district, embracing			
David Scott, President,	-	-	-	Luzerne,	July 7, 1818.	1,600 00	76 60
William Sterling Ross, Associate,	-	-	-	do.	May 6, 1829.	140 00	
Charles D. Shoemaker, "	-	-	-	Wayne,	Aug. 21, 1830.	140 00	7 20
Moses Thomas, "	-	-	-	do.	Nov. 17, 1815.	140 00	28 60
James Manning, "	-	-	-	do.	Oct. 31, 1839.	140 00	
Daniel W. Dingman, "	-	-	-	Pike,	Oct. 17, 1814.	140 00	
William Broadhead, "	-	-	-	do.	Sept. 30, 1836.	140 00	
				12th district, embracing			
Calvin Blythe, President,	-	-	-	Deerphin,	Feb. 1, 1830.	1,600 00	111 00
Isaac Green, Associate,	-	-	-		Jan. 26, 1832.	140 00	48 60





## PROCEEDINGS AND DEBATES.

JUDGES.					Judicial districts.	When appointed.	Annual salaries.	Per diem pay and mileage.
					16th district, embracing			
Alexander Thomson, President,	-	-	-	-	Franklin,	June 25, 1827.	\$1,600 00	\$111 60
Matthew Patton, Associate,	-	-	-	-	do.	Oct. 29, 1830.	140 00	27 30
Robert Smith,	-	-	-	-	Bedford,	Dec. 12, 1836.	140 00	40 80
John Dickey,	-	-	-	-	do.	Feb. 6, 1798.	140 00	
Peter Shell,	-	-	-	-	Somerset,	April 16, 1831.	140 00	33 60
Henry Black,	-	-	-	-	do.	Nov. 10, 1820.	140 00	
John Kurtz,	-	-	-	-		Dec. 16, 1823.	140 00	
					17th district, embracing			
John Bredin, President,	-	-	-	-	Beaver,	April 18, 1831.	1,600 00	79 20
Benjamin Adams, Associate,	-	-	-	-	do.	May 27, 1834.	140 00	
John Nesbit,	-	-	-	-	Butler,	Feb. 21, 1837.	140 00	37 80
John Parker,	-	-	-	-	do.	July 5, 1803.	140 00	27 00
James Bovard,	-	-	-	-	Mercer,	April 1, 1806.	140 00	
Alexander Brown,	-	-	-	-	do.	July 5, 1803.	140 00	
William Amberson,	-	-	-	-		Sept. 21, 1803.	140 00	
					18th district, embracing			
Nathaniel B. Eldred, President,	-	-	-	-	Potter,	Nov. 10, 1835.	1,600 00	125 50
Timothy Ives, Jr. Associate,	-	-	-	-	do.	March 10, 1836.	140 00	27 60
Seneca Freeman,	-	-	-	-	M'Kean,	March 10, 1835.	140 00	1 60
Joseph Otto,	-	-	-	-	do.	Sept. 1, 1826.	140 00	15 00
Joel Bishop,	-	-	-	-	Warren,	Sept. 1, 1826.	140 00	21 00
Isaac Connolly,	-	-	-	-	do.	Oct. 18, 1819.	140 00	12 60
Obed Edson,	-	-	-	-	Jefferson,	Dec. 8, 1835.	140 00	39 60
John W. Jenks,	-	-	-	-	do.	Aug. 20, 1830.	140 00	
Andrew Barnett,	-	-	-	-		April 24, 1837.	140 00	

Daniel Durkee, President,	.	.	.	.	.	.	.	.	.	119th district, embracing	May 4, 1835.	\$1,600 00	33 60
George Barnitz, Associate,	.	.	.	.	.	.	.	.	.	York,	March 29, 1813.	140 00	43 20
John L. Hinkle, "	.	.	.	.	.	.	.	.	.	do.	Dec. 10, 1818.	140 00	
William M'Cleath, "	.	.	.	.	.	.	.	.	.	Adams,	Oct. 7, 1823.	140 00	
George Will, "	.	.	.	.	.	.	.	.	.	do.	April 13, 1837.	140 00	
RECORDED OF THE CITY OF PHILADELPHIA.													
John Bouvier,	.	.	.	.	.	.	.	.	.	.	Commissioned, January 19, 1836.	900 00	
RECORDED FOR THE INCORPORATED DISTRICT OF THE NORTHERN LIBERTIES, AND THE DISTRICT OF SPRING GARDEN AND KENSINGTON.													
Robert T. Conrad,	.	.	.	.	.	.	.	.	.	.	Commissioned, September 2, 1836.	500 00	
RECORDED OF THE CITY OF LANCASTER.													
Patton Ross,	.	.	.	.	.	.	.	.	.	.	Commissioned, April 12, 1820.	600 00	
RECORDED OF THE CITY OF PITTSBURG.													
Ephraim Pentland,	.	.	.	.	.	.	.	.	.	.	Commissioned, July 6, 1824.	600 00	
												\$70,746 67	\$9,187 57

Mr. INGERSOLL submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That this Convention will adjourn on Saturday, the 24th of June next, to meet again at this place, on Monday, the 16th of October ensuing, and that a special committee be appointed to publish in newspapers in every city and county throughout the State, all such amendments of the Constitution as shall be agreed upon by this Convention, at the time of its said adjournment.

Mr. MARTIN, of Philadelphia county, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That the committee to whom is referred the third article of the Constitution, be instructed to enquire into the expediency of so altering the first section of said article, that all white male citizens who have arrived at the age of twenty-one years, and upwards, and being liable to pay tax, shall enjoy the rights of electors.

Mr. SMYTH, of Centre, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That the committee on the sixth article of the Constitution be instructed to inquire into the expediency of reporting a section so that the Legislature shall provide by law for organizing and disciplining the militia, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

Mr. RITER, of Philadelphia county, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That the committee on corporations and currency, be instructed to report on the expediency of providing that no bank charter whatsoever, shall be renewed by the Legislature, but that when necessary, new banks shall be created; and whether the public welfare would be promoted by such provision.

Mr. COPE, from the committee of accounts, reported an appropriation, which was agreed to.

Mr. INGERSOLL, from the special committee on the currency, the public highways and eminent domain of the State, reported the following in part, new article, to be added to the Constitution, which was laid on the table, and ordered to be printed :

#### ARTICLE X—PUBLIC HIGHWAYS AND EMINENT DOMAIN.

SECT. 1. No law shall be enacted granting to any individual or any number of individuals, whether incorporated or otherwise, exclusive right in the navigation, water power, or water for any other purpose, on any one or more rivers of this State. All alluvions shall accrue to the riparian owners, but all newly formed islands shall belong to the State.

SECT. 2. No law shall be enacted by which any individual, or any number of individuals, whether incorporated or otherwise, shall be permitted by any bridge, dam or otherwise, to obstruct the navigation of any river, whether the same be by law declared a public highway or not.

SECT. 3. Private property shall not be taken for public use, without equivalent therefor in money, ascertained by general law, and paid before any private property shall be entered upon in order to be applied to public use.

Mr. EARLE, of Philadelphia, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That this Convention, commencing on Monday next, will daily hold morning and afternoon sessions, until the amendments to the Constitution to be proposed to the people shall be finished, and that the said amendments be submitted for ratification to a vote of the people, to be taken on the first Tuesday of September next.

## FOURTH ARTICLE.

The Convention then proceeded to take up the unfinished business, viz : the fourth article of the Constitution.

Mr. CLARKE, of Indiana, moved to postpone the further consideration of this article, as many members desired time to see what other amendments were proposed, before they voted on this report : and the question being taken on his motion, it was decided in the negative.

The Convention then resolved itself into committee of the whole. Mr. DENNY in the Chair, and the reports of the majority and minority of the committee were taken up for consideration.

The question being on agreeing to the amendment reported by the committee,

Mr. BIDDLE moved to amend the report, by striking out the word "majority", and inserting the words "two thirds".

Mr. STEVENS suggested, that the better course would be to disagree to the amendment of the committee.

Mr. BIDDLE acquiesced in the suggestion, and withdrew his motion.

Mr. CHAMBERS rose and addressed the committee. The question (said he) is to agree to the report of the committee, which strikes out from the Constitution the words "two thirds", and substitutes "a majority". The more I reflect on the subject, the more am I satisfied, that we ought to retain the provision as it stands in the present Constitution. It ought not to be overlooked, that the officers of the Commonwealth, from the Governor down to the lowest subordinate, are exposed to impeachment ; and it behoves the committee to hesitate, and reflect long, before they withdraw the shield which protects them against malicious or unfounded accusations. I am disposed to look at this question without reference to the tenure of office, whether it be for a term of years, or during good behaviour. I will not agree, that the public servants, officers of upright conduct and high reputation, in whom the public confidence reposes, shall be exposed, without any protection, to infamous conviction and the most degrading punishment, when the most profligate citizen is not liable to be affected in his rights, his character and his property, without that protection which it is now proposed to withdraw from the public officer. As was remarked, yesterday, the meanest criminal, charged with the most petty offence, has a right not only to his trial by an impartial tribunal, raised from his own county, but also of knowing who are his accusers, what is his crime, and who are the witnesses to testify against him ; and no conviction can ensue unless the jury shall be unanimous in their opinion of his guilt. Again, so cautiously is he guarded in the possession of liberty and life, that, in reference to his trial, he has even a choice in the selection of his jury. He is to be tried by a jury selected impartially : and when so selected, he has the right of challenging a certain number without cause, and also others for cause. And after throwing before him this "seven-fold shield", the law then requires that there shall be unanimity in the jury before he can be convicted. He knows too what is the charge he has to meet, the offence being stated with precision as one which was to be found in the statute book, or adjudged by the decisions of the courts, in a way which cannot be mistaken by the tribunal before which he is to be tried. But the public officer is arraigned, and for what ? For misdemeanors in office. And what are misdemeanors in

office? Are they a class of crimes recorded in the statute book? No. They are mere political offences, to be tried by a political tribunal. They are crimes by construction; and may be crimes to-day, but not crimes to-morrow, according to the temper of the times, the fluctuations of political opinion, and the ascendancy of political parties. I do not know, with any certainty, to what class these offences can be referred. There are but few instances of impeachment. There may be, now and then, instances of corruption and unfaithfulness about which there can be no mistake, but there are thousands which depend entirely on circumstances for their criminal stamp. In all times, public opinion has varied as to what are misdemeanors in office. Great offenders have in all ages been brought to the punishment they deserved. But, in times of high political excitement, the power of impeachment has been carried to the most discreditable extent. A public officer has been impeached for giving opinions to his sovereign. Another has been impeached and convicted, for signing what was called a prejudicial peace. Another, for presenting medicine to the king, without consulting his physician. These are extreme cases, it is true, but they are on record among the impeachments of officers, of whom public opinion afterwards pronounced that they did not deserve punishment. We, of this republic, are liable to the same prejudices, and influenced by the same passions, which have operated on human action in all ages. Men are not to be regarded, for practical purposes, as what they ought to be, but as what they are. Time has been, even among ourselves, when an honest and faithful officer may have been impeached, who would have been degraded and disqualified for office, had the judgment depended on a mere majority of the Senate. The public interests are sufficiently protected by the provision as it now stands. If a public officer should be guilty of offence so flagrant, as to call down upon him the animadversion of law, there is little doubt that sufficient evidence would be produced to satisfy two thirds of the Senate of his guilt. And if such amount of evidence could not be produced, it would be better to acquit the person charged, according to the established maxim, that it is better that ten, or a hundred guilty, should escape, than that a single deserving officer should be degraded and rendered infamous, by a partial or unjust sentence. The object of public justice would be sufficiently secured, if the present provision in the Constitution were retained. It had been said, that public officers have escaped justice. If so, we have no right to suppose that they were guilty; or, if they were, the tribunal must be liable to the charge of having been unfaithful in the discharge of their duty. But as those by whom they were tried are the representatives of the people, the fair presumption is, that they did discharge their duty, and that the evidence was insufficient.

Again, what is public opinion on the subject? Throughout the United States, every where, I believe it is in favor of retaining two thirds as necessary to convict. This provision forms a part of the Constitution of the United States, and is, I believe, embodied in the Constitution of every other State, without exception. So far as a general examination entitles me to speak, I believe, it pervades them all. Another ground which suggests itself, is this: the power of conviction, by less than two thirds, will be, with all competent, qualified and honorable men, an objection to taking office. Will men who stand high in public confidence



for their integrity of life and purity of purpose, consent to enter upon a public office, when they may be liable to be swept away in a moment of political excitement, by the preponderance of a mere majority, acting under the influence of political prejudice? What greater misfortune can fall upon a man, high in office, elevated in feelings and in character, than, by a single blow, to be stricken down to the lowest point of degradation? What is the spared life to him who is degraded and disqualified for ever? We may go along safely, as we have hitherto done, with the Constitution. in this respect, as it stands, and thus afford to the public officer the same protection which is secured to the meanest culprit. And, powerful, indeed, should be the reasons which would induce us to withdraw the shield, and leave the public servant exposed to the hazard of unmerited shame and disqualification, whenever the eye of political malignity shall mark him for its victim.

Mr. PURVIANCE said, before I give my vote on the question before the committee, I will ask a moment's attention whilst I assign my reasons; as I intend to vote against what might be considered the popular view of the subject, I am anxious that my reasons should accompany that vote.

In one particular, at least, I agree with the respectable gentleman from the city, (Mr. BIDDLE) that no alterations should be made in the existing Constitution, unless some strong and cogent reason is assigned for the change, and on this ground, I predicate my opposition to the report made by a majority of the committee on impeachments. I cannot believe, that it is such an amendment as the people at this time require, nor do I believe, that at any time, any particular anxiety has been manifested upon the subject. I would appeal to the friends of reform, of judicious reform, whether it is not better at this time, to be satisfied with such amendments as will secure the certain approval of the people, and leave others less important, to be inserted hereafter, under the provision for future amendments. As yet, sir, we are uncertain in what shape the amendments will be submitted to the people, whether in distinct propositions or as a whole. If the latter course should be adopted, are we not risking the reforms we have so much at heart, by connecting with them others not required by the people, nor demanded by any public exigency whatever? If the amendments are to be submitted in distinct proportions, by having too many, it may but tend to confusion, and thereby occasion a loss of perhaps one or more of our most favorite measures. So far as my observation has extended, no dissatisfaction has prevailed in relation to the article under consideration. But, sir, I am influenced by other and stronger reasons in the vote I am about to give. The proceeding in cases of impeachment, as has been clearly and eloquently shown by the distinguished gentleman from the city, (Mr. SERGEANT) is closely allied to that of trial by jury. They are kindred proceedings, equally to be regarded as sacred and inviolable. The reason which should induce us to dispense with the one, should operate with equal force in relation to the other—and were we now forming a new Constitution, instead of amending an old one, the concurrence of the whole Senate in the conviction of the accused, would strike me as a much more reasonable provision, than that of a bare majority. This argument would acquire additional force, should any reduction be made in the Senatorial term. Instead of four years, suppose the Senate were elected for but two, one half to go out each year; this,

sir, would bring the party accused before a body, one half of which had been newly chosen, and perhaps participated in, and owed their election to the excitement which originates the very accusation. That I may be clearly understood, I beg leave to illustrate my position: suppose an officer of government, (for all are embraced within the impeachment provision) should be charged with a high offence; a judge, for instance, charged with the offence of bribery, and that the public mind on the subject had become, to a very great extent, highly inflamed; the party accused must appear before a tribunal, a majority of whom have been elected at the same time, the same place, and in the same manner, prescribed for the election of those who originate the impeachment. This, sir, would be converting what is intended to be a judicial tribunal, into one purely political. Gentlemen have spoken of this question in reference alone to its effects upon the judiciary, as if no other officers of government could become the subjects of impeachment. The very article provides for the impeachment of the Governor, and annexes as the penalty removal from office, and certain disqualifications in future. In times of high political excitement, even two thirds might be found in both Houses, willing to avail themselves of the slightest pretext for ousting a political opponent from the Executive chair, and yet we are called upon by gentlemen to permit this great principle of protection to be frittered down to a bare majority—to invest that majority with the power, not only of removing from office, but of disqualifying the convict forever afterwards from holding any office of honor, trust or profit, under this Commonwealth. I say convict, because the article declares him such, and yet gentlemen would say, that one half instead of two thirds of the jury who try him, (I mean the Senate, which is the same thing) shall fix upon him that odious character, alike destructive of his reputation, peace of mind, and future standing in society. Sir, if there is a principle for which I have been taught an early reverence—if there is any one principle in the government, to which my affections can be said to cling with an ardent fondness, it is the right of trial by jury. Amidst any and every conflict, which may arise in our government, I should desire to stand by and watch over the sacred right. Sir, if at any time, through blind delusion and political heat, a dissolution of the elements of our social compact should ensue, and this most cherished principle shall be torn from us, then, and not till then, will I be willing to abate my confidence in the stability of government, and bid farewell to the liberties of the country. I hope, therefore, the report of the majority of the committee may not be sustained, as it would innovate upon the principle of trial by jury, and introduce to the notice of the people, an amendment which they neither originally contemplated nor now require.

Mr. AGNEW said he would not have troubled the committee with any remarks, had it not been, that he considered the amendment proposed by the report as tending to effect a change of an important principle in our Government. It was not with a hope of adding much that is new to the arguments advanced and so eloquently urged by the distinguished gentleman who had preceded him, that he claimed their attention, but he considered it not only his privilege, but his duty to raise his voice against the proposed change was a change of principle, a change in the Constitution of a high judicial tribunal, which had been instituted for the purpose of trying more than the ordinary offences against society. That tribunal was established for

great purposes, not simply as had been intimated, to overrule or to awe the judiciary, but to check and restrain the whole class of civil officers from the chief Executive, down to the lowest officer in a civil station. What was the Constitution of this tribunal? How was it formed, and what restraints were imposed upon it to prevent an infringement of the rights of the citizens, as well as to preserve the purity of the Government? It is, sir, a *political* body, composed of *men* with all the passions, prejudices and weaknesses of men, coming, one fourth of them, every year, into office, with the feelings and views of partizans, laboring under excitement, and often *pledged* to the support of certain measures. 'This, sir, is the tribunal to which is committed the decision of the honor or infamy of every officer in the Commonwealth. Its sentence involves the highest punishment to be inflicted upon an honorable and a feeling mind—removal, and a total disqualification to hold any office of honor, trust or profit. What guards are imposed upon this mode of trial to secure impartiality and justice? Was it chosen by an impartial power? Or might it not be chosen by the very faction from whom the accusation would come, and might not some of the very accusers be chosen to sit, and pronounce judgment in a case which they themselves had been instrumental in having brought up for impeachment? Whatever feelings of enmity or political hostility may have entered the heart of a Senator, however he may have prejudged the question, or have been elected with regard to the very occasion which made him a judge and juror, the accused had no right of challenge, no right to object. In the ordinary administration of justice, no matter how light the offence, a jury must sit, apart from all communication, suffered neither to speak with others, nor to separate from each other—every precaution used to secure an upright decision, uncontrolled by external bias. On the other hand, the Senate meets, adjourns, meets again, mixes with the crowd, hears its opinions, marks its decisions, and, perhaps, finally yields to the unhallowed cravings, of party appetite. 'This is the body, to the arbitrament of a *mere majority* of whom is sought to be given the weal and woe of every officer of the Government. 'The Declaration of Rights, that solemn and sacred charter of the rights of citizens—rights which should ever remain inviolable, has proclaimed the sacred character of the trial by jury, esteeming it the best safeguard of liberty, and the strongest shield against oppression. 'The humblest citizen, when reproached by the tongue of slander, and attempted to be justified against him, finds his reputation, dearer to him than life, guarded, protected and preserved by the verdict of his peers; and only their *unanimous* voice can fix upon him the stamp of infamy. Yet this report calls upon us to submit our reputations, our most cherished interests to the decision of a *mere majority* of a body, chosen without regard to impartiality, restrained by no salutary checks, animated by party warmth, and perhaps prompted by ulterior objects. 'The Bill of Rights has declared that no *ex post facto* law shall be passed. But what law has ever defined official misconduct—indeed, what law can ever with certainty define it? What law fixes the punishment, when thus defined? 'The meanest, vilest, offender cannot be condemned to punishment, unless there has been a law defining the crime and declaring the punishment, which shall await the commission of it. But the Senate, sir, in cases of impeachment, sits not only to decide the facts, but to determine

the innocent or criminal character of those facts, and when so determined, to fix the punishment from the slightest censure up to total disqualification to hold office of honor, trust, or profit. This, sir, all this, is proposed to be committed to a *bare majority* of a body from whom there is no appeal, whose sentence is beyond control. He would ask, if reputation, on an humble scale, has been secured to the citizen, whether it should not require more than seventeen out of thirty-three members of the Senate to pronounce upon, perhaps to blast the reputation of, the highest officers of the Government? Perhaps one of this tribunal might absent himself, or not choose to vote: sickness, or other cause prevent attendance. Yet, these circumstances would have the most important influence upon the decision. He would ask whether such a tribunal would be a sufficient protection of the liberty of the citizen?

He said there is still another view of the subject which remains to be considered. This was, the bearing the change would have upon the conservative principles of the Constitution itself. When the people established their Constitution, for the purpose of preserving it inviolate, they distributed the powers conferred, into three departments, divided by plain and distinct lines, so that each might hold a check upon the other, and prevent that usurpation of power which would be the inevitable consequence of a consolidation of the powers of Government. The House of Representatives and the Senate, form the Legislative department, and also have the one the power to prefer, and the other the power to try, impeachments. The Chief Magistrate who exercises the veto power upon some favorite measure of a faction in the majority for the time being, or the supreme judicial officers who decide against the Constitutionality of the same measure, may be brought to trial and condemnation before the legislative body, and more pliant tools made to fill their places; thus destroying, by one fell swoop, the very balance of power intended to be obtained in the wise distribution provided by the Constitution.

The people had not called for any such alteration; certainly *his* constituents had not, and to connect it with necessary amendments, might only jeopardize the whole.

Mr. EARLE said, that believing this debate to be of very little use, as it was evident that many gentlemen were not prepared to vote until the article in relation to the tenure of office was disposed of, he would move that the committee rise and ask leave to sit again. He made this motion, he said, so that they might proceed to the consideration of the subject of future amendments to the Constitution. This subject was one which was deserving the consideration of the Convention; because no matter how perfect they might make the Constitution in their own eyes, still their posterity might have reason to amend and modify it. He, therefore, moved that the committee rise.

Mr. DICKEY hoped the committee would not rise, as he believed the majority of the committee were as well prepared to decide on the fourth article of the Constitution now, as they would be at any other time, or after any other article should be passed through. In relation to the subject of future amendments to the Constitution, it would be time enough to determine upon that, after they should determine whether they would make any amendments to the present Constitution. He trusted some

amendments would be made, but when the Convention determined on that, it would be time enough to consider this other subject.

Mr. BELL had, on yesterday, expressed a wish that the committee might not decide on this amendment, until the subject of the judiciary was passed upon, and he did so, because he then believed that many gentlemen were not prepared to vote on this subject until that one was disposed of; but, after the discussion which had taken place yesterday, and that which had taken place to-day, and from the fact, that no gentleman rose to sustain this amendment and advocate it, the conclusion was irresistible, that a large majority of the Convention were opposed to this amendment. He thought, then, there was no reason why they should not proceed to determine on this subject, without further debate, as certainly the cogent arguments made on yesterday and to-day, must satisfy every one that this amendment should not be adopted. He should forbear to say more than to express a hope that the committee might not rise, and that the vote might be taken, as he was now prepared to vote against the amendment.

Mr. BROWN should not have troubled the committee with any remarks from him, had it not been for the remark which fell from the gentleman from Chester, (Mr. BELL). Although there had been no argument used by those who were in favor of the report of the majority of the committee, yet he apprehended the minority, which appeared so small now, would be increased if the existing principle, in relation to the tenure of office, was retained in the Constitution. It was the impression and full belief, that some change in relation to the tenure of office would be effected, that made gentlemen so much disposed to acquiesce in this provision as it existed in the Constitution. He, for one, would be satisfied with the present article as it stood, provided judicial officers were elective, or appointed for a term of a few years, but he would not be satisfied with it, if the tenure of office was to remain as at present. If the election of these officers should be given to the people, then he would make them as independent of the people as possible, but if the tenure of office was not to be changed, he wished to have some mode provided by which the people could reach these officers. It was upon the supposition that the tenure of office would be limited, that he, and many of the members of the Convention, were disposed to allow this two thirds principle to remain; not that he himself, however, was favorable to granting the Senate the power of condemning any man, or any officer, for he had lost much of his respect for the judgment of the Senate, of this State, or that of another Senate. But when officers were placed entirely out of the reach of the people, he desired to have some mode by which the people could have them impeached and punished. From his understanding of the matter, if the committee should now take the vote and rise, and report to the Convention, it will then lie over for consideration, and be again taken up, and the report may be then either adopted or rejected. With this view of the subject, he was prepared to vote to retain the principle of two thirds at present, but, at the same time, he held himself at liberty to change his vote as circumstances might require, when it came up again, and go for the majority report on the subject, if no change was made in the tenure of office.

Mr. MERRILL wished to say a word in reply to the gentleman from



Philadelphia county, (Mr. BROWN) as he thought that gentleman had drawn an inference which was not warranted by the state of the facts. The gentleman says, if the tenure of office is changed, it will make a difference with him and some others, as to the vote they shall give on this question : and, he says, if the judge is only to hold his office for a term of years, and be responsible to the people, that he will be in favor of retaining this two thirds principle in the Constitution. Now, he (Mr. M.) had listened with some attention to the gentleman, and he could see no reason for this distinction. The trial for impeachment was a trial for a criminal offence, and will gentlemen say a judge shall not be impeached, however corrupt he may be, because he holds his office for only two years?—or, is he to be deemed not guilty of any offence, whether he has committed any crime, or not, if he holds his office for two years? And, is he to be held guilty if he holds his office for a longer term? Was it to be said, that an officer will be held to account for a certain crime, if he holds a tenure of office for good behaviour, when, for the same offence, he would be exempt from punishment if he held his office for two years? Were you to hold out to your officers an inducement to commit crimes, because you have provided no punishment for them? Were you to justify your officers in the commission of crime, because they held their offices only for a term of years, and punish them for the same offences, if they held their offices for life? Mr. M. objected to all such distinctions. He was opposed to having a man condemned for an offence, because of his being a life officer, of which he would have been acquitted, if he had been an officer for a term of years. He believed there could be no distinction, and that there ought to be no distinction in cases of impeachments, and that the security, in each case, should be equal. He would now come back to the question, whether it should require two thirds to sustain an impeachment in all cases. It will be recollected, that the Senate is not chosen by the respondent who is to be tried before it, he having but his single vote as a citizen in the election of that body; and that if he had the power to challenge members, as in the case of a jury, it would only be lessening his security, as he would then have to be tried by fewer numbers. If he understood the question aright, seventeen members might constitute a tribunal for the trial of an offence of this kind, and nine of that number would be a majority; and, in a case of this kind, he might be tried by seventeen, and convicted by nine, and convicted too of an offence which should deprive him of citizenship. Was it possible that any gentleman would subject an officer to condemnation before a tribunal of this description? And to condemnation, too, which was forever to disqualify him from holding any office of honor, trust or profit. It had been said that some men preferred life to honor. There might be such men, but he hoped that no such man would ever hold an office in Pennsylvania. He could see no reason why there should be a difference of opinion, in relation to impeachment. The tribunal was originally instituted for the trial of great offences;—for the trial of men, who, it might be supposed, would overawe or exercise an undue influence over the common tribunals. It has been invested with great powers, and can crush those who are brought before it, and deprive them of all that is held valued by an American citizen. Then why should an officer not have some protection afforded him? Why should he not require more to convict him

than a bare majority? a majority which may be reduced down to nine men, a less number than required to convict a common culprit; and for all this, there is no appeal, no writ of error, and no pardon. He hoped the committee would not rise, but that the proposed amendment of the Constitution might be rejected.

Mr. BONHAM was in favor of acting speedily on the question: let us do one thing or another. We have now spent almost three weeks in a great deal of useless discussion, and if it was to be continued, he imagined, the people would be led to believe what had been frequently remarked before the election, that if the Constitution was altered at all, there would be so many alterations, and it would be so entirely remodeled, as to destroy it, or if not to destroy it, to make the new Constitution a great deal worse than the old one. He thought, for his part, that the amendment reported by the committee on the fourth article, was unnecessary, that it could not be made better than it now was, and that they had better leave good enough alone. The impeachment of a judge, we all know, is a matter which requires a great deal of serious reflection and integrity of purpose to investigate, and we all know that gentlemen who occupy high places very frequently have enemies. Men are frequently found to envy their situations, and who are not too pure to bring false accusations against them, and in this way they may be impeached in times of high party excitement; and many an innocent man made to suffer because of not having the opportunity of an impartial trial. He believed the Constitution as it now stands, could not be amended for the better, and as to any thing in the tenure of office, he could not see how the argument of gentlemen applied to the case. He could not see what difference it would make in the case of an impeached judge, whether he held his office for seven, ten or twenty years. By introducing this amendment in our Constitution, injustice might be done to high-minded, honorable and honest men. In times of high political excitement, when men were carried away by prejudice and passion, he would not trust a bare majority to sustain an impeachment. If this was the case, some of our most honorable and best men might be impeached, thrown out of their situations, and their reputations entirely destroyed. He thought, from all he could learn before the elections and since, the general opinion among the people was, that but few amendments were necessary to the Constitution. It was admitted on all hands that the Constitution might be amended for the better, in some few particulars; that executive patronage might be curtailed in some degree, and that the time of meeting of the Legislature should be changed. These, he believed, were all the amendments the people desired; and the fewer amendments we made, the sooner the Constitution will be adopted by the people. For these reasons, he should vote against the amendment.

Mr. FORWARD said, that the process of impeachment had been spoken of as the ordinary, if not the only method of removing a judge from office. But this was a mistake. The most usual and the readiest mode of reaching an unworthy judge was by "address of two thirds of each branch of the Legislature" to the Governor. Such address may be made for "any sufficient cause, which shall not be a ground for impeachment", and a judge may therefore be removed in this way for incompetency, negligence, or any other reason which may make his continuance

in accordance with the public interest. And this was the mode which, in most cases, had been resorted to for displacing judges. That mode has always been without effect was shewn by the fact, that removal of judges had been effected by address. And it was proper to remark, that the instances mentioned by his friend from Indiana, (Mr. [unclear]) of judges bargained out of office, did not, he believed, occur in cases where they were threatened with impeachment, or were actually impeached, but when complaints were depending before the Legislature, or referred to an address. The fact that the judges despaired of escape, and agreed to resign their offices, proves, that this mode of ridding the bench of incumbents, who ought not to be there, is neither useless nor inefficient. It may be that the difficulties in the way of removing judges by address, are such, as in some degree, to discourage complaints against them. But if this be the case, those difficulties may be lessened. You may, if you please, render the judges more accessible to the Legislature, but when the charge of official guilt is brought before the Senate, in the shape of an impeachment, the security to the accused is no greater than in reason and justice it ought to be. It was very true, as had been said, that few persons had been found guilty on the trial of impeachments, but this did not shew that there was any just ground for exception to that mode of trial. It could be made to appear, that judges, or other public officers, who were proved to be guilty, had been acquitted by the Senate, these might be fair reasons for discrediting this mode of trial. No man ought to desire that an officer should be found guilty, and disgraced without satisfactory proof. It was against reason and humanity. Nor was it fair or charitable to suppose, that a man must of course be guilty, because in the discharge of his public duties, he had given offence.

The reasons for distinguishing on the trial of impeachments, between the cases of those whose offices are held by different tenures, is very unsatisfactory. To say that two thirds should be required to convict, when the accused held his office for a term of years, but that a majority should be sufficient when the tenure was good behavior, was making the tenure itself a part of the crime. When a public officer was brought to trial, the only enquiry was, whether he was guilty of the crime charged against him, and if a Senator were told, that in making up his mind as to the guilt of the accused, the weight of the evidence was to be lessened or aggravated according to the tenure of the office, he would feel himself insulted. The reason why a number greater than a majority, but less than the whole, should be enabled to convict, was obvious. The Senate was a political body; its members generally belonged to one or other of the political parties of the Commonwealth. They generally won their way to their places through controversy and recrimination, and held them as prominent and active members of a party. If unanimity was required, in order to convict, upon the trial of impeachments, party prejudice or influence may render convictions impossible. And, for a like reason, if a majority could convict, innocent and upright officers would be in continual jeopardy. The public interest, as well as the security of innocence, therefore, required that a number less than the whole, and greater than a majority, should determine the fate of the accused. It was to be remembered, that in cases of impeachments, neither favor nor ill will furnished a ground of challenge. Officers were put under oath, and the reliance of the Commonwealth,

as well as the accused, was upon their consciences and their sense of honor. That they might be influenced by prejudice to some extent, at least, was implied in the constitution of the court, and in the nature of the Senatorial office, and, therefore, it was, that it was not competent for a bare majority to ascertain the guilt of the party on trial. The Senate is a branch of the Legislature. Its ordinary duties are those of legislation. The power to try impeachments is rarely exercised, and the possibility of being called on to sit on such trials, is not permitted to interfere in the least with those duties. In conducting the business of legislation, the conduct of public officers is often the subject of animadversion. It is expected of members of the Senate, that as guardians of the rights of the people, they will freely and fearlessly remark upon the conduct of those officers, whenever the interests of the community may require it. A remote probability that the Senate may become a court of impeachment, is no reason for laying them under restraint, or of abridging, in the least, their right to censure, or commend the conduct of men in office. But the unrestrained exercise of this right is itself a sufficient reason why public officers, when put upon trial, should not be doomed to infamy upon the award of a bare majority. The requisition of two thirds for this purpose, is no more than reasonable, and is demanded by considerations of equity and humanity.

Mr. EARLE would enquire whether the whole merits of this question were open for discussion, on a motion that the committee rise.

The CHAIR (Mr. DENNY) said, on yesterday, when this same question arose, he had doubts whether the question was debateable. He had however understood this to be the general practice, and had permitted the discussion to go on.

Mr. SCOTT believed it had always been the practice to discuss the whole merits of a question, on a motion that the committee rise, and perhaps after a subject had been so fully discussed as the one now before the committee has been, it might be better for every one to give his views while the matter was fresh in our minds. While the character of punishment in cases of successful impeachment had been very fully described, there was one feature connected with it which had not yet been alluded to. There was no sentence known to the laws of Pennsylvania, from which the victim might not be redeemed by repentance and amendment, through the medium of executive pardon, except the punishment inflicted in the case of impeachment. He who has been condemned by the judgment of the Senate, either to removal from office, or to disqualification from office, bears upon his forehead the deeply impressed brand which, under the Constitution as it now exists, is forever ineffaceable. Sir, the Constitution says, the Governor may pardon in all cases, except in cases of impeachment. The amendment proposed by the committee on the subject, leaves that portion of the Constitution unaffected and unchanged. Thus, then, we are for prompting the majority of the Senate to inflict a punishment upon a man without any power of pardon, without any check, or without any restraint.

If we were to allow a majority to inflict punishment in all cases of impeachment, he wished to know the extent of the power, and to what cases it reached. How long after an offence is committed is the officer liable for it? Does his liability cease when his official term expires? Is

he when out of office liable for an offence committed a year, or an indefinite number of years, before? The Constitution did not say he should not be, and perhaps warranted the construction that he was, liable for all past offences: for all offences committed during his term of office: at any time after that term may have expired. The practice in England was in accordance with this doctrine. He believed the question had not yet been raised in this Commonwealth, but it had been under the Constitution of the United States. That was the doctrine asserted by an eminent person (Mr. RANDOLPH) at the trial of Judge CHASE. If it be sound, then he who has ever been an officer, and has conducted himself well, and, as may be believed, without reproach, may, when out of office, and after the lapse of years, and when politics had undergone a change, be arraigned, under this power of impeachment, summoned before this high tribunal, tried, and convicted by a bare majority. There was no limitation in the Constitution as to the time, and the punishment of disqualification would still remain to be inflicted. He referred to a provision in the Constitution by which the Legislature is prohibited from passing any bill of attainder. It provides that no person shall be attainted of treason by the Legislature, and that no attainder shall work corruption of blood, nor extend to forfeiture of estate beyond the life of the offender. If we were not willing to trust that power to both Houses of the Legislature, how could we trust the power of convicting an impeached officer, to a majority of one? The punishment inflicted in the latter case was far more severe than in the former. It was to be considered, too, that this impeachment could easily be obtained. To present a complaint to the House did not require either trouble or expense. It was not necessary that the complainant should possess either wealth or influence, all he had to do was to write a simple letter to his representative, and he would be bound to present it. It would then become the duty of the body to make the inquiry. It put the accuser to no cost; and there was never a case in which the doors of the Legislature were not open to complaint, from whatever quarter it might come. The subject would be reported upon by a committee of the House of Representatives; a committee would be appointed to conduct the prosecution before the Senate. The whole force of the commonwealth would be thrown into the impeachment, and finally the vote of a single individual might turn the scale against the respondent, and convict him of an offence, even years after it has been committed. If we desired ever to finish the work of the Convention, it was our duty to pass on this topic now. If we postponed it now, we should come to another debate upon it next fall or spring, and in this manner, we should resolve ourselves into a permanent body.

Mr. DORAN said, in common with the members of the Convention, I have been instructed and delighted by remarks made by gentlemen during this debate, and were the subject under consideration perfect in its nature and distinct, I should be prepared to give my vote at once. But what are we called upon now to decide? Why, to see how many votes in the Senate shall be required to convict the accused, without having first determined who the accused shall be, who shall be his accuser, and what shall be the tribunal to try him. Is this the regular mode of proceeding? Ought we not rather to find out the criminal before we convict him? It is said, the Governor, and all other civil officers under this Commonwealth, shall be



liable to impeachment; but, sir, we do not say who those civil officers are. Are they to be understood as judges alone, or are they other officers than those of a judicial character? Is the Lieutenant Governor, an officer intended by some gentlemen, and very properly, to be created under the new Constitution, to be liable to impeachment? These questions cannot be answered, for the plain reason, that they relate to subjects not yet acted on by the Convention. If the persons liable to impeachment are not ascertained, it does not appear to me that we can properly say how, by whom, in what way, or for what they may be impeached; the punishment, and the mode of trial and punishment, being, in my opinion, dependent on the offenders. But we have not only not yet decided who the accused shall be, but the accusers, the tribunal for trial, as well as the offence, are still undetermined. The House of Representatives, it is said, shall be the accuser; they shall prefer the impeachment, but who shall constitute the House, and what shall be the qualifications of its members, are matters to be fixed on hereafter. Besides, the Senate to try the impeachment is no less uncertain, and we well know, that in regard to the Senate there is every prospect of a material change in its organization, being made by the Convention. The people have demanded a change, and who here shall dare disobey the voice of the people? Suppose we were hereafter to say that the Senators should be elected every two years, and that their presiding officer should be the Lieutenant Governor, how would the two thirds, or the majority system, then apply? and is the Lieutenant Governor to have a vote in impeachment? These questions I am not now prepared to answer. Now, Mr. Chairman, what shall be considered a misdemeanor in office, for which an impeachment will lie, is equally doubtful. The words "misdemeanor in office" are general and equivocal, and may be defined hereafter by the Convention to mean certain offences, not in the least applicable to the judges of courts, and, perhaps, gentlemen, when they find that the judges are not to be liable to impeachment, will be quite willing to have a conviction without the concurrence of at least two thirds of the members of the Senate present. All these considerations weigh heavily on my mind, and induce me to vote for a postponement of immediate action on this article of the Constitution, until we shall decide upon others necessarily preliminary, without which our labor will be premature and vain.

Mr. EARLE said, that man's heart must be adamant and impenetrable, who was not convinced, after having heard the twelve speeches which had been delivered in succession, on one side of the question. He congratulated those gentlemen who went with him in favor of an afternoon session, that they were so certain of success—all that they had to do was to go into committee of the whole, and there they could be kept as long as any two members wished it. One would sleep while another was speaking, and one member would speak in the committee of the whole, as many times as he pleased. As we have a prospect of remaining here for some time, he proposed to enliven the scene a little, by offering the following amendment to the report of the committee:

"SECT. 4. All public officers convicted before any court of record, of misdemeanors in office, shall be liable to removal by the Governor; and the record in such cases, shall be forthwith transmitted to him by the Court."



Mr. PORTER, of Northampton, said he had been extremely anxious to preserve system and order in our proceedings, and this could only be done by confining the amendments submitted to the appropriate articles. That he feared the amendment proposed was not appropriate to the article now under consideration, but belonged more properly to that part of the Constitution which treated of officers and tenure of office, and if so offered, he was prepared to support any salutary provision for the removal of other officers, beside judges, for offences not of an impeachable character, for which there seems to be no adequate provision in the existing Constitution.

A well constituted court of impeachment is much to be desired, yet difficult to be attained, in an elective government. Its jurisdiction is of offences arising from the abuse or violation of public trusts, and the prosecution of them, has a tendency to excite and agitate the community in which the circumstances have arisen, and divide it into parties more or less friendly or inimical to the accused. And it is always desirable to guard the tribunal which decides upon a man's rights, as far as practicable, from popular agitations. It is an essential safeguard to the liberty of the citizens, and as necessary in a court of impeachment as in a trial by jury. The Constitutions of all the States have given the popular branch the right of preferring the accusation, and the branch that is farther removed from the effect of popular excitement the right to try the impeachment, and requiring two thirds of that body to convict.

He, (Mr. P.) did not agree with the gentleman from the county, (Mr. DORAN) in the idea that there was no analogy between the House of Representatives, and an ordinary grand inquest in a court of criminal jurisdiction. With the exception that the proceedings were not secret, and that the accused was usually permitted to be present, and perhaps cross examine the witnesses for the prosecution, the proceedings were entirely similar in their character. The accused is not permitted to bring any testimony in his behalf before the House of Representatives. The system of authorising one branch to accuse, and the other to try, avoided the evil and danger of making the same party or body accuser and judge : it guards against persecution and the prevalence of a factious spirit in either branch : and, again, the concurrence of two thirds of the more permanent branch, being requisite to a conviction, will generally be a sufficient safeguard to innocence. In trials by jury, for even minor offences, unanimity is required : he trusted this would never be dispensed with, and if the Senatorial term should be reduced to two years, it might be well worthy of consideration, whether unanimity might not be required in the court of impeachment. The disposition to change seemed stamped upon every thing human, and more wisdom will often be evinced in checking this tendency than in rushing headlong into untried theories. The people are fully adequate to self government, and I trust their right to it will never be questioned. But in constituting their own government, they have, in every instance in which their government has had any stability, provided checks and balances to guard against sudden impulses. So long as the world is peopled by men, and not angels, infallibility will not belong to man, either in his individual or collective capacity. Individuals are liable to err, and so are bodies of individuals, and of this truth, we have seen many and striking instances ; men have been proscribed and hunted down

by prejudice and misapprehension, who, after their death, have been almost canonized for the very conduct that led to their denunciation in life. The people are honest, and mean right, and ultimately will do right, but they, as well as individuals, often require time for deliberation, and their deliberate opinion sometimes condemns their sudden acts growing out of impulse and excitement. No man bows more deferentially to the majesty of the people than I do, or will go further to carry on their deliberately expressed will; and if the people have desired alterations and amendments, they ought to be gratified. It is one thing to do this, another to uproot and change every thing. This unceasing love of change—this overturning and overturning, until nothing is left, seems to be the business of the uneasy part of the world at this day. This, and the insatiable thirst for offices, which we daily witness, are calculated to do much evil. If gratified, many of the results so happily set forth by ADDISON in one of his allegories, will be produced. He tells us that a command once went forth, I believe from JUPITER, king of the gods, that the dissatisfied of mankind might each carry the peculiar burden, under which he labored, to an appointed place, and there throw it down, and take up the burden, which any other person might have there deposited; that change was very generally made, and after a given time, a similar command again went forth, when lo! almost every one carried back their new burden, and resumed their original one. In relation to the particular subject now under consideration, he trusted the Convention would pause ere they changed a provision, matured with great deliberation by our fathers, and which had worked well in practice. Some gentlemen say that their vote upon this subject must be governed by the determination which the Convention might make relative to the tenure of judicial officers. But let it be remembered, that whilst this provision relates to judges, it also relates to the Governor, the Heads of Departments, the Prothonotaries, Clerks of Courts, Registers, Recorders, County Commissioners, and in fact, all the officers of the Commonwealth, of which the judges constituted but a small portion; and the provision is a general one as to all officers, whatever their tenure may be. Can there be any difference in a man's guilt, whether his office is held for three, five, or ten years, or during good behaviour? or ought there to be any difference in the Constitution of the tribunal which is to try him? A crime is manifested by the criminal intent of the party doing the act, the *mala mens*, known to the law, as contradicting intentional from unintentional misconduct.

There is a marked distinction between impeachable offences, and official misconduct, not characterized by criminal intent. No officer can be convicted on impeachment, who has not offended *criminally*. This position is ably enforced in the arguments of Judge HOPKINSON, and Mr. LUTHER MARTIN, on Judge CHASE's trial, and by DAVID PAUL BROWN, before the Senate of Pennsylvania, and the principle recognized in the decision of both the cases, may now be considered the settled law of the land.

What evils have ever grown out of the present system of impeachment? Has any man ever been acquitted who ought to have been convicted? If so, I have not heard of the case. Judge ADDISON was convicted, and although all agree that he deserved to be removed from office for bringing politics upon the bench, yet many have thought that his offences were rather such as would have justified removal by address, than conviction.

on impeachment. There have been other cases of impeachment in this State, in which acquittals have taken place, and in one perhaps, because the matters charged were not impeachable, although they would have been good causes for removal. Judge COOPER was removed by address, and he urged, that if he had done the acts charged, they were proper for impeachment, not for the course pursued. Mr. P. deprecated this unceasing cry of change, change, change. He asked deliberation before discussion, and hoped that no changes would be made, but such as were seriously called for by the people. 'This destroying the necessity of having two thirds of the court of impeachment to convict, was uncalled for, and it would be unwise and inexpedient to adopt it. He said that it was of immense importance in all cases, to have impartial trials, whether it was by courts of impeachment, or by courts and juries. That great evils were sustained by the recent fashion of cutting up counties to such small territorial limits, and to such a limited population, that no cause scarcely could be fairly tried in them. That the minds of the jurors were filled with impressions received out of doors, of which they could not be divested by the evidence they heard in court. That the amendment of the gentlemen from the county, he thought inapplicable to the article under consideration, and that to prevent confusion and disorder, all propositions which did not appropriately belong to the subject under consideration, should be voted down.

Mr. DICKEY rose to a question of order. We were, he said, considering Report No. 2. He had understood the Chairman to receive the amendment of the gentleman from Philadelphia, as an amendment to the amendment. 'The better way, he thought, would be to act on the report of the majority, and then pass to a second reading. When it came up on the second reading, it would be the proper time to offer the amendment.

'The CHAIRMAN said the amendment was in order, as an amendment to the amendment of the 4th article reported by the committee.

Mr. EARLE said he had intended his amendment as a 2d section to the article.

'The CHAIR said, then it is not in order: but the gentleman can offer it, after the report has gone to the second reading.

Mr. EARLE then withdrew the amendment, for the present.

Mr. DICKEY, with a view, he said, to bring the article back to the Constitution as it stood, moved to strike out the word "majority", and insert, "two-thirds".

Mr. BAYNE considered the motion to be unnecessary, because the same result could be obtained by agreeing to the report of the majority of the committee.

Mr. READ said the course suggested by the gentleman from Beaver, was probably correct. Any other mode of proceeding would lead to inexplicable confusion. 'There was no other way to get along without confusion, than by considering the amendments reported by the committees, as bills. That was the only mode of proceeding. 'The suggestion of the gentleman from Allegheny (Mr. BAYNE) would only be productive of confusion. He apprehended that the opinion of the gentleman from Adams (Mr. STEVENS) that the amendment of the gentleman from Beaver (Mr. DICKEY) was out of order, was erroneous.

Mr. STEVENS remarked that the gentleman from Susquehanna (Mr.

READ) had misunderstood him, if he thought that he (Mr. S.) said that it was not in order for the gentleman from Beaver to offer his amendment. He (Mr. S.) had merely observed that the effect of the amendment would be exactly the same as if a motion had been made to strike out the whole report of the committee, for it would be to leave the old Constitution untouched. He presumed that gentlemen had not come there to re-enact the Constitution, but only to propose amendments to it. They were to determine whether or not that instrument should be altered, but were not to pass upon it as it stood. No amendments would be prevented by the committee of the whole disagreeing to the report of the majority of the committee. A motion could afterwards be made on the second reading, to amend the report of the committee of the whole, by substituting the report of the standing committee, and the question could be taken by yeas and nays, and disposed of, without bringing up the old Constitution, which was not before them.

Mr. CLARKE, of Indiana, apprehended that the Convention were getting into some difficulty. If the subject matter before them was the report of the majority of the standing committee, and they should negative it, as he thought would be done, from all he could hear, how would they stand then? Why, if the only thing before them was negatived, there would, consequently, be nothing to come up for a second reading. To adopt the motion of the gentleman from Beaver to strike out the word "majority", and insert "two-thirds", would be the true course. If that motion was agreed to, the question would then come up before the Convention on the second reading.

Mr. DICKEY said the report No. 2, contained the whole article. The committee reported no amendments to the first and third sections of the fourth article; but in the second section they proposed to alter the Constitution by saying that no person shall be convicted, on a trial of impeachment, unless by a *majority*, instead of two-thirds as has been the case. He (Mr. D.) had moved to strike out "majority" and insert "two-thirds". He hoped that the committee would now act on his amendment, and, if it should be adopted, the section, as amended, would come up on the second reading, and then an opportunity would be afforded to gentlemen to offer such amendments as they might deem proper.

Mr. CUNNINGHAM observed that there was not the slightest difficulty as to what course the committee should adopt, in regard to the amendment offered by the gentleman from Beaver. They could either take the question on his amendment, or on the article as it now stood. It would be found, on recurring to the rules on the subject, that if the amendment should be negatived in committee of the whole, it could afterwards be considered in the House on the second reading. According to the rule—if a proposition has been negatived in committee, the Chairman, after leaving the Chair, makes that fact known to the President, and then the question is put, whether the Convention will agree to what has been done in committee of the whole; and should they decide that the report of the committee shall be adopted, why, then, the Convention itself has negatived the amendment, and there was no occasion for proceeding further.

Mr. CHAMBERS said—I do not perceive any necessity for adopting the amendment of the gentleman from Beaver. Under our rules there are two methods of bringing an amendment to the Constitution before the

Convention. One is through the intervention of the standing committees, to whom the several articles of the Constitution have been committed. The other is, by individual members, who have the right to submit amendments. Now, for what purpose were those committees organized, and those articles referred to them? Why, in order that they might report them with amendments, if they thought proper. Well, then, if they report amendments, it is the amendments we are to consider and act upon. And, if the Convention resolve itself into committee of the whole on the report of the committee—on what have they to act? Why, not on the report alone, but on the amendment submitted by the committee. What is the pending question? It is whether the committee of the whole will adopt the amendment submitted by the standing committee. That is the subject for discussion. What, then, is to be the report? The report to be made from the committee of the whole to the Convention is, that the committee have had under consideration—what? Not the report; but, that they have had under consideration the amendment submitted by that committee, (if it be a single one) and they have agreed to adopt it, or reject it. And, if any member, or members, choose to submit amendments, the same course will be pursued in regard to them. They are amendments to the article, whether they come from a standing committee or from members. Why, supposing that it was a mere matter of considering and adopting the report—where the report consists of some five or six amendments—and one of these amendments is adopted in committee of the whole—the next one is rejected—the next one adopted; and so on, &c.—how do you report it? Can you report to the Convention that the committee of the whole have adopted the report of the committee, or rejected it? No, you will be for reporting the amendments as they have been adopted, or as rejected, as well as the amendments that may be submitted by individual members, passed upon and decided. With this view, I consider that we can get into no difficulty, because, after being in committee of the whole, the subject is susceptible of amendment—open to amendments by the decision of the Convention, and, indeed, the Convention can go into committee of the whole again and consider them.

Mr. SERGEANT said, that what struck him as the difficulty in the way of the motion of the gentleman from Beaver, he would state in a word or two. The standing committees of the Convention had reported an amendment, and to that amendment was proposed another amendment, which, if adopted, would leave the clause in the Constitution exactly as it stood before. It was, therefore, no amendment to the Constitution. He did not mean to raise the question of order, whether it is in order to make a motion to amend an amendment, in such a way as that the amendment should be thereby in effect stricken out. Such an amendment was a mere negative of the first amendment. He repeated that he did not mean to raise the question. But, it appeared to him, that inconveniences would result from reporting as an amendment, what made no alteration, but left the Constitution exactly where it was. For, if he were to follow the matter out, and suppose that we were finally making up for our constituents a statement of the amendments we have made in the Constitution then upon our journal, it would appear as an amendment, when in fact it was no amendment, being in the very words of the Constitution itself. It, therefore, struck him as being objectionable on this account. We are



in a puzzle in regard to this matter. He could see where it was, and he thought that he could see plainly, that the Convention were to be relieved from it by the committee appointed yesterday, to revise the 7th and 39th rules. They had the power of making such changes in the rules as they might think proper, and they would decide whether after the report of the committee of the whole upon a particular article, that article of the Constitution was, or was not, to be voted for. What they should vote for would be satisfactory. When the section and amendments now before the committee of the whole, should come up in the house, it was understood that a motion would be made to postpone for the present; so that then no question at all would be taken upon concurrence, or upon proceeding to a second reading for the present. He was disposed to wait until that committee should report, to propose to the Convention how they would proceed. It was necessary that gentlemen should act with caution, for there was real difficulty in the matter. Some thought was required in order that a correct rule might be made for their guidance. It was such a puzzle as was proposed to a certain Governor, when he was put upon the trial of his capacity for sitting in judgment. The case was thus stated: There was a certain river, and over it there was a bridge. At one end of the bridge there was a gallows erected, and every one who came from the opposite side was to be asked where he was going? If he stated truly, he was to be allowed to pass freely; but if his statement was not true, then he was to be hung on the gallows at the other end of the bridge. A man presented himself, and being asked the question—where he was going?—he answered that he was going to be hanged on that gallows. Now, here was the puzzle. If he were hanged, then he spoke the truth—and ought not to be hanged; but if he were not hanged he did not tell the truth, and ought to be hanged.

So we are involved in the same difficulty here. If we amend, there is no amendment. If we do not amend, there is an amendment. Can we make an amendment, and at the same time have no amendment. If the committee adopted the amendment, they would be involved in the same puzzle as that which perplexed the learned judge concerning the gallows. They would have an amendment which was no amendment. When that committee which had been appointed on the rules should report to the Convention, they would have an opportunity of considering which course of proceeding was the best to be pursued. He would suggest to the gentleman from Beaver, who was much better acquainted with matters of this sort than he (Mr. S.) was, whether it would not be better to take the vote on agreeing to the amendment, reported by the committee, or disagreeing to it. The Convention would then have an opportunity to act upon this report, together with the others, when the question should come up on the second reading; and, in the mean time, the committee to whom the rules had been referred, might have reported a modification of the rules which would obviate all the difficulty.

Mr. DUNLOP, of Franklin, said, a gentleman, who was a very able mathematician, had once made a calculation that two and two made four. He (Mr. D.) thought the same sort of calculation might be made in regard to the proposition of the gentleman from Beaver, for it was just as easy to come to a correct conclusion as to what should be done. Had it not been for what had fallen from his colleague, he would not have said a word.—



He would not say that the gentleman's (Mr. DICKEY's) proposition was out of order, but he must say that it was absurd, if the gentleman would excuse him. He meant, however, not the slightest disrespect to the gentleman. On the contrary, he entertained the greatest respect for him. But, supposing that the gentleman's proposition succeeded—what would be the consequence? Why, it would be to leave that part of the Constitution which had been referred to one of the standing committees, precisely as it stood before. We should then be told it was the old Constitution, *totidem verbis*. The better and most proper course, would be to let the question be taken on the report of the committee, if it be an amendment why can't we call it so—"a rose by any other name would smell as sweet"—and then when it should come up on its second reading—any member would have an opportunity of offering an amendment. For, supposing the House to disagree to the report of the committee, why then the gentleman's proposition would come up on the second reading. The difficulty which now presented itself on the ground that it is no amendment, would thus be got rid of. Well, then, let the committee, at once, take a vote on the report, and proceed in the regular way, as it would not prevent the gentleman from Beaver, from offering his amendment hereafter. As to the gentleman's (Mr. SERGEANT's) illustrations, in regard to SANCHO PANZA, and the difficulty into which the committee had fallen, he (Mr. D.) would only say, that if the committee would adopt the course which he had pointed out, all would be well, and however SANCHO might be puzzled, he hoped that we would not.

Mr. DICKEY said, that his proposition was not so absurd as it might appear to the gentleman. He (Mr. D.) conceived that he had taken the right course in moving his amendment at this time.

Mr. DUNLOP said—Cannot you move to insert your amendment on the second reading?

Mr. DICKEY replied—I choose to do it in committee.

Mr. DUNLOP: I might move to put the the same words in again—what prevents?

Mr. DICKEY: I could move to strike them out again.

Mr. MEREDITH hoped that the Convention would not lose sight of the governing principle of their proceedings. He understood that principle to be, that it required a positive majority of the body to make an amendment to any article of the Constitution, and if the vote was even, the Constitution would remain unchanged. The question before them, then, was not one of mere form. In whatever they did, they ought so to proceed as that they should preserve this one important principle. And, the question was—how was it to be done? A standing committee had been appointed, to which had been referred the fourth article—now under consideration. That committee had reported two sections of it without amendment, and, with reference to the second section, they recommended a certain amendment, which is contained in their report. The Convention then resolved itself into a committee of the whole, for the purpose of seeing whether there was a majority in favor of making an alteration in that article. What would be the consequence of the adoption of the amendment offered by the gentleman from Beaver? Why, it would be to restore the language of the Constitution, instead of changing it, as was proposed by the committee. He could not agree with the gentleman from Beaver, as

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to the propriety of acting upon it at this time. If the proposition of the committee should be lost, why the Constitution would remain as it now is. He coincided in the views expressed by the Chair, as being strictly correct. When the report of the committee should come up for a second reading, if not negatived, an opportunity would be afforded gentlemen to offer amendments. The gentleman from Beaver appeared to consider the article in the Constitution, as a bill under consideration, and requiring to be passed before it could become a law, and regarded the amendment of the committee as a real, substantive amendment to that bill. He hoped that the committee appointed to revise the rules would provide a mode by which the present difficulty, into which the committee of the whole had got, would in future be avoided. He trusted that the section would be negatived.

Mr. EARLE asked if the motion of the gentleman from Beaver was in order?

The CHAIR: The motion is perfectly in order.

Mr. EARLE: How the gentleman's motion can be in order, which is no amendment at all, I am totally at a loss to perceive.

Mr. CLARKE, of Indiana, said that the committee on rules would probably report soon, and it was evident that there was a majority for not altering the Constitution in the manner proposed—therefore, he would, in order to get rid of the difficulty, for the present, move, that the committee rise and ask leave to sit again.

Mr. DICKEY said he thought the same difficulty would arise again, the next time they sat, as now. The Convention had referred the nine different articles of the Constitution to nine separate committees, and one of them had reported one of the articles without amendment, and he hoped that it would be considered a second time—for it was necessary that every article should undergo a second revision, and then would arise the question, whether the work of the Convention should be presented to the people as a whole, or in distinct propositions. The committee of the whole had now to act on the report of the committee who had reported an amendment to the second section of the fourth article. We must amend their report, if we would bring back the article to the state in which it was originally submitted to the committee.

Mr. STEVENS said it seemed to him a question of more than mere form; it was a question of principle, involving consequences of great moment, and it was the duty of the committee to consider them attentively. He did not think that we were to take up the opinion of the committee, and consider it as thrown into the committee of the whole or in the Convention. Although he thought there was some irregularity, as to the manner in which the reports of the standing committees were considered, yet, when the subject came into committee of the whole, gentlemen were not to lose sight of the power with which they were vested. They did not come here, as he had before said, in order to see whether the present Constitution of Pennsylvania was to be continued, but to propose amendments to it. And, until they did propose amendments, and they are submitted to the people, and confirmed by them, the present Constitution remains. Whatever the Convention did, must be affirmed or disaffirmed by the people. But, if the notions of some of the gentlemen were to prevail, we were to take up the articles of the Constitution, and decide

whether *they* should be the Constitution of the State! Well, supposing that we were to adopt the amendment of the gentleman from Beaver, in what shape would it go before the people? Why, in the very words of the existing Constitution itself. The standing committee had proposed an amendment, and it was for the people to say whether or not it should be adopted. The gentleman's amendment could not be submitted to the people, because we had no power to lay the Constitution, or any part of it before them, but only such alterations or amendments as were proposed to be made. Look at the absurdity—it is a legal absurdity—of amending the section according to the proposition of the gentleman. What do we do? Why, we strike out words already in the Constitution, and put them in *again*, and present it to the people as an amendment.

Mr. DICKEY: It is *not* an amendment to the Constitution.

Mr. STEVENS: But it is an amendment to the report of the committee, which is the same thing as an amendment to the Constitution.

Mr. DUNLOP rose for the purpose of saying a few words, with the gentleman's permission.

Mr. STEVENS: I call the gentleman to order. I do not yield the floor. What do we do, suppose we refuse to adopt the amendment? Suppose that we were a legislative body, the House of Representatives, and a bill were reported here precisely the same, (as some gentleman has suggested to me) as a certain law that was passed five years ago, or a law that was not exactly the same. Well, the bill comes up for consideration, and a gentleman rises in his place, and moves to strike out all after the enacting clause, and to insert an old law, word for word, before it could be reported to the House; they would have to act on it, because it would be useless to send it to the House, unless the committee of the whole agree to the report on the subject. The law goes on to say that so and so shall be the law of the country, for so many years. Now, I would ask, would you add a repealing clause to it? Or, would you wish it to pass, when you had the same law already in force? Mr. S. would seriously ask, whether the course proposed to be adopted, did not lead us into difficulty?

Mr. DUNLOP said, taking the proposition which he had suggested to the gentleman (Mr. STEVENS) that he had under consideration a bill, and some person moved that the enacting clause be stricken out, for the purpose of inserting something that appears on the statute book. Well, then, the same subject would be before the house. But it could be got rid of by some one moving that the amendment be indefinitely postponed. This amendment, therefore, might be got rid of in that way.

Mr. BAYNE, of Allegheny, said the whole matter must be construed by the rules. Two reports would be, in most cases, made by the committees, and one would be always for sustaining, and the other for altering the Constitution. He believed the report of the committee on the rules would obviate that difficulty.

The Committee then rose and reported progress, and, after a few words from Mr. EARLE, (who desired an opportunity to offer the amendment he had prepared), from Mr. FRY, of Lehigh, (who also desired an opportunity to suggest amendments), and Mr. FARRELLY, of Crawford, (who desired, as one of the majority of the committee, to make some remarks in favor of the amendment which had been reported), obtained leave to sit again to-morrow.

The Convention then adjourned.

SATURDAY, MAY 20, 1837.

Mr. MYERS, of Venango, presented memorials from Venango county on the subject of banking, praying that some restrictive provisions in relation to that subject be introduced into the Constitution ; which were ordered to be referred to the committee appointed for the purpose.

Mr. HAMLIN, of Warren, presented a memorial from the citizens of M'Kean county, on the subject of banks, similar in its import, and concluding with a like prayer; which was ordered to be referred to the committee appointed for the purpose.

Mr. BIGELOW, of Westmoreland, submitted the following resolution, which was laid on the table, and ordered to be printed :

*Resolved*, That the first section of the third article of the Constitution be so amended, as to provide as follows, viz : “ In elections by the citizen, every free white male citizen of the age of twenty-one years and upwards, who is a citizen by birth or naturalization, and every son of a naturalized citizen, of the age of twenty-one years and upwards, who may have resided in the state one year, and at the time of offering his vote, a resident of the township or district where he shall offer such vote, shall enjoy the rights of an elector : *Provided*, That neither paupers, nor persons under guardianship, nor persons who have been convicted of any infamous crime, nor persons *non compos mentis*, shall be permitted to vote at any election”.

Mr. DARRAH, of Berks, submitted the following resolution, which was laid on the table, and ordered to be printed :

*Resolved*, That the committee on the fifth article of the Constitution, be instructed to enquire into the expediency of so amending the second and tenth sections thereof as follows, viz :

SECT. 2. The judges of the Supreme Court and the President Judges of the courts of Common Pleas shall be appointed by a joint vote of both Houses of the General Assembly, the Judges of the Supreme Court for a term of ten years, and the President Judges of the courts of Common Pleas for a term of seven years ; and the Associate Judges of the courts of Common Pleas, &c. shall be elected by the qualified electors in the counties where they are to officiate, and for a term of three years. The Judges of the Supreme Court and the President Judges of the courts of Common Pleas shall, at stated times, receive for their services an adequate compensation to be fixed by law, which shall not be diminished during their continuance in office, but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under the authority of this State or the United States.

SECT. 10. Justices of the Peace shall be elected by the qualified electors in each township or ward for a term of three years, and not to exceed two in number in any one township or ward, and whose powers and duties shall, from time to time, be regulated and defined by law.

Mr. BARNITZ, of York, from the minority of the committee on the first article of the Constitution, made the following report, which was ordered to be laid on the table and printed :

Mr. BARNITZ, from the minority of the committee to whom was referred the first article of the Constitution, made the following report, viz :

The undersigned, a minority of the committee to whom was referred the first article of the Constitution, submit the following report, viz :

That it is inexpedient to make any alteration in the fifth section of the first article of the Constitution.

CHARLES A. BARNITZ,  
HARMAR DENNY,  
W. P. MACLAY.

## FOURTH ARTICLE.

The Convention then proceeded to the consideration of the fourth article, being the unfinished business, when

Mr. BROWN, of Philadelphia, suggested that the further consideration of this article, at the present time, would be out of place, and desired its postponement. He was about to assign reasons, but

Mr. CUNNINGHAM, of Mercer, suggested that the question was not debatable.

The question was taken on the motion to proceed to the consideration of the fourth article, and decided in the affirmative.—Ayes 76.

The Convention then resolved itself into committee of the whole, Mr. DENNY in the chair.

The question pending being on the motion of Mr. DICKEY, of Beaver, to strike out of the second section of the article the words “a majority”, and insert the words “without a concurrence of two-thirds”.

Mr. BROWN, of Philadelphia, moved that the committee rise. He said he made the motion for the committee to rise, in consequence of the apparent impression on all sides, that in the present stage of our proceedings no change ought to be made in the article under consideration. Those who looked to a change at any time, had all placed that change upon contingencies which might or might not happen. It was therefore due to them to postpone a decision of the question, until the future provisions in the Constitution shall point out the course for them to pursue. The people, he said, would be surprized, if not astonished to learn, that the Convention had been for several days debating upon questions which had not been agitated by them; and they would ask how it was, that some twenty or more of the most talented gentlemen of the Convention, had all spoken in favor of the article under consideration, when not one word had been said against it. They will think there is more in it than meets the eye. He, for one, (said Mr. B.) did not know what was meant by all those speeches, unless it was to induce a belief elsewhere, that the friends of reform were desirous of changing all parts of the Constitution, merely for the sake of change, and to give certain gentlemen an opportunity on which to hang learned speeches in defence of the independence of the judiciary, and on the “sacredness of the trial by jury”, when no one here felt any desire to destroy the one, or impair the other. The friends of reform wished only such reform as the people required. They did not want to try theories, no matter how beautiful they might appear to those who proposed them, and he called on them now, to put an end to the discussion of subjects, which did not look to the reform required, and take up those parts of the Constitution, to which it was necessary to make amendments.

While he was up, he (Mr. B.) would say a few words to the gentleman from Northampton, in reply to what fell from that gentleman yesterday. The course of that gentleman's remarks, went to show the incompetency of the people for self-government.

Mr. PORTER rose and said, he had not said the people were not competent to self-government.

Mr. BROWN said the gentleman from Northampton might modify the language he had used, if, on reflection, he thought best so to modify it; but he (Mr. B.) was not mistaken in the inference that was drawn from

the gentleman's language, which went to show how prone the people were to do wrong.

Mr. PORTER : The gentleman is bound to take my explanation. I did not say that which he put into my mouth.

Mr. BROWN : I have a right to draw my own inferences from the gentleman's remarks, however he may qualify them.

Mr. PORTER : I call the gentleman to order. He misquotes me, and persists in his misrepresentation of what I said.

Mr. BROWN : I have a right, sir, to infer from the course of argument pursued by the gentleman.

Mr. PORTER : I call the gentleman to order.

The CHAIR said, the gentleman from Philadelphia county is called to order.

Mr. PORTER : I neither said what he imputes to me, nor any thing from which any gentleman could draw such an inference.

Mr. B. said the gentleman from Northampton may have his own version of his own language, but he, (Mr. B.,) had a right to say in argument, what were the inferences to be drawn from the arguments of the gentleman from Northampton, though this gentleman may now give to his language and his argument, what direction he pleases. He, (Mr. B.,) would leave it, however, to the Convention, to judge of what the gentleman from Northampton did say—or what he meant. As the gentleman seemed so sensitive on this subject, he, (Mr. B.,) would notice another portion of the gentleman's remarks, which he, (Mr. B.,) presumed the gentleman from Northampton would not deny having made. The gentleman from Northampton had joined in chorus with those opposed to reform, and had, long and loud, uttered his deprecations against the increasing desire of change, that had obtained among the people. This (said Mr. B.,) had been the cry at all times raised by those who had power, against the people when they attempted to wrest it from the hands of those who had unjustly deprived them of it. All the despots and tyrants that had ever held the people in bondage, were opposed to this desire of change in the people. All the good (said Mr. B.,) the people ever attained—all the freedom they now enjoy, here or any where else, had been obtained through this desire of change ; and he (Mr. B.) hoped this desire of change would never cease ; but that the people would always require such changes in their Government, as their experience and future light might point out to them, as necessary for their happiness. The people of Pennsylvania had always been in favor of change. The Constitution made in 1776, by the tried men of that period—by such men as FRANKLIN, CLYMER and RITTENHOUSE, was changed in twenty years. Change is the result of experience ; and the people will always desire change, when the government is not such as they approve.

Mr. B. would not, he said, have troubled the Convention, with any reply to the remarks of the gentleman from Northampton, had it not been that circumstances had placed that gentleman, at the commencement of the session of the Convention, in a prominent position in the party with which he (Mr. B.,) acted ; he deemed it, therefore, his duty to say that the whole tenor of that gentleman's remarks was not, in his (Mr. B's.) opinion, such as the democratic party, in or out of the Convention, entertained or approved.



Mr. HOPKINSON suggested that it would be improper for the committee to rise, as it was understood that a gentleman was entitled by courtesy to the floor.

Mr. BROWN stated, that he had consulted with that gentleman (Mr. FARRELLY) on the subject, and had understood from him that he did not wish to address the committee at the present time.

Mr. PORTER said, there are some men possessed of so much obliquity of moral and intellectual vision that they will not understand aright, and when corrected, will not be convinced of, or acknowledge their errors.

Mr. BROWN. What does the gentleman mean? Does he intend to impute any moral obliquity to me?

Mr. PORTER. I mean exactly what I said. I have used a general expression, and if the member finds it applicable to himself, he must so apply it. Yesterday he (Mr. P.) had expressly said that the people were entirely capable of self government; that all power properly belonged to them, and that they generally exercised it right; but that until man was otherwise constituted than he was, he was liable to error, both individually and collectively; that the people when they did so err, on reflection corrected their errors. This had been tortured and misrepresented by the gentleman from the county of Philadelphia, who had charged him with asserting that the people were not capable of self government—a sentiment he had never entertained or uttered. He had always held that the people were the only legitimate source and depository of power; that all power was inherent in them, and that they were capable in the fullest extent of governing themselves and managing their affairs; and he felt no disposition to let misrepresentations of his language or sentiments go abroad without contradicting them. The delegate from the county had been corrected in his misrepresentations, when he uttered them; but he still persisted, contrary to all rules, to reiterate the charge—exemplifying the truth of what GOLDSMITH says, in the Deserted Village:

“In arguing, too, the parson owned his skill,  
For e’en though vanquished he could argue still.”

He said he trusted that delegate would henceforth find some more fitting employment than making such charges against his neighbours.

Mr. BANKS interposed: He hoped, he said, that the gentleman would not pursue his remarks any further.

Mr. PORTER said, he should add nothing more.

Mr. BANKS, of Mifflin, expressed his regret that the discussion should have assumed any thing like a tone of personal asperity. The time is coming, said he, when the party with which I am associated, will have quite enough to do to sustain itself. It was a sound maxim—“Save me from my friends; my enemies, I can take care of myself”.

Mr. BROWN replied, that was the reason of his remarks. We can take care of our enemies, or, at least, they will take care of us. It was the course of argument pursued by the gentleman from Northampton, one of our friends, which induced me to make the remarks I have made. It is possible I may have misunderstood the exact tone of his observations, although others around me understood him as I did.

Mr. M’CAHEN, of Philadelphia, said that if any of those who ranked as their political friends deviated from the proper path in the

warmth of argument, he had no fears but that he would, when the proper moment should arrive, approve himself to be democratic in action.

Mr. HOPKINSON, of Philadelphia, suggested that as the gentleman from Crawford, (Mr. FARRELLY) had yesterday expressed a desire to offer his sentiments, as one of the majority of the committee, it would be but an act of courtesy to hear him.

Mr. BROWN said that before he had suggested a postponement, he had consulted the gentleman from Crawford, and obtained his acquiescence.

Mr. FARRELLY, of Crawford, explained that he had been induced to ask the attention of the committee for a few moments, because no one had risen in defence of the report of the committee which had reported the amendment, and he thought it proper that some one should do so. But he was of the opinion that this was not the proper time; and, in deference to the wishes of his friends, he would prefer to say what he intended, after other propositions of amendments had been offered and considered.

Mr. SMYTH, of Centre, stated that as one of the majority of the committee, he had expressed a wish that this subject might lie over for the present. His vote on the question would be regulated by circumstances. He was sorry to see that the debate had taken so wide a range, and to mark the feelings which were mingled with it. The promotion of the public good was his chief object; and while he expressed his belief that some change was desired by the people, he would at once avow his determination not to give his aid in sweeping away the whole Constitution. He thought the committee ought to rise, and let this question be passed over for the present. All the gentlemen who spoke yesterday, deprecated the placing of the judges in a situation in which their offices and characters might be put at hazard by a single vote. Neither did he wish to place them in that position; but at the same time, he desired to see an adequate protection to the rights of the people. Officers were not less frail than other citizens, and while they were entitled to the privileges of others, could claim nothing beyond them.

Mr. MARTIN, of Philadelphia, disclaimed, in rising, any intention to make a speech, but he wished to say a few words to explain the cause of his voting against the rising of the committee. He was glad the committee had reported as they did, because their report had been productive of a discussion which would be profitable both to the Convention and the country. He believed the committee was as well prepared to vote on the question now, as it would be at any time. He had no expectation that any such alteration would be made in the Constitution, as would warrant the conviction of any public officer by a mere majority of the Senate. Such had always been his views, and they were not now altered. The principles on which this report was founded had been spread far and wide, and he was, therefore, glad that the report was made, and that the discussion had taken place. He was sorry that his colleagues from the county of Philadelphia, were not as well satisfied. While they all desired to see some changes, he was sure that there was not a representative from the county who desired to have any made which were wanton or uncalled for, nor did he believe that any such would be made. He hoped the committee would not rise, and he trusted his colleagues would be satisfied with the decision of the committee.

Mr. FULLER, of Greene, hoped the committee would not rise. This

was the third day the discussion had continued. The principle of the majority, involved in this article, had never, so far as he knew, been advocated by the people of Pennsylvania. He thought, after the committee had voted upon it, the Convention should pass this article over, until all the other amendments should have been gone through. The principle, to which, in the range of their argument, gentlemen had alluded, whether the judges should hold their offices for a term of years, or during good behaviour, was not now before the committee; and if the question now under consideration were decided, that decision would not settle the principle of the term for which office should be held. In saying this, he did not intend to give his opinion as to the necessity of any amendments to the Constitution. That question he presumed to have been determined by the people, in their ratification of the two acts of assembly by which this Convention had been called together. The idea had been thrown out that a shield ought to be thrown round courts, by which their dignity should be secured. The best security, in his opinion, would be short terms of office, and direct responsibility to the people. There would then be an end of impeachments, because the judges would be amenable to the people. The severity of the punishment renders it impossible to convict by impeachment, on the principle that the severer the punishment, the less liable is it to be put in force. It would be better for the Commonwealth that such a change should be made. If an officer be elected, or appointed for a term of years, the people have an assurance that he will, if he has rendered himself odious, be got rid of. But the evil of impeachment consists in the difficulty, the almost impossibility, of removing the person accused, because he can never be convicted. It was immaterial to him, whether the majority, or two thirds were agreed upon, for all the difficulty would be avoided, if the incumbents held their offices for short terms. The Convention was proceeding slowly in its labors. Excess of gravity seemed almost to stop the wheels. Occasionally a backward movement was made, and the advance was scarcely perceptible. The motion to rise, he opposed, because it could only lead to more loss of time.

Mr. MERRILL, of Union, said the opinion of the gentleman from Greene, coincided with his on the subject of postponement. He wished the further benefit of argument, and was therefore adverse to postponement. If gentlemen had sufficient reasons to offer to sustain the amendment of the committee, why not give them? Had the gentleman from Philadelphia county stated at first, that he had suggested the postponement with the consent of the gentleman from Crawford, who was entitled to be heard, he would have saved much trouble. If that gentleman wished an opportunity to deliver his sentiments, why would he not do it at this time?

Mr. FARRELLY said he would prefer that the committee rise, as this was not the proper time to go into the question: but as there were some gentlemen who wished to hear what reasons could be advanced in favor of the report of the majority of the committee, they might as well be given now, as at any time. But gentlemen were mistaken, if they supposed that he was about to make an elaborate speech. He was not so anxious to carry the amendment, as to have given so much labor and time to the subject, as would enable him to give his views at any length. He would,

however, proceed to assign very few reasons for his course, without endeavoring to follow any gentleman in the wide range of discussion which had been introduced. The plain question is, whether, on conviction by impeachment, a majority, or two thirds, shall be required. He was in favor of a majority, and for this reason: a majority was sufficient, in his opinion, for all practical purposes, because the sentence involve merely a removal from office, and was not followed by that disqualification which fixes a brand of infamy on an individual, and which has been justly held up as the greatest punishment which can be inflicted. Therefore, a majority was all that ought to be required; and he would wish the words "and disqualification to hold any office of honor, trust, or profit, under this Commonwealth", to be stricken out of the article. As every public officer held his office as a trust from the people, it was right that a majority of those who represent the people, should have the power of removal. It would be wrong that any public officer should continue to hold his office, after a majority had declared that he should not. A majority alone, therefore, should be required. Looking to the past, it had been, at all times, found to be nearly impossible to obtain two thirds in favor of conviction. Another reason why he preferred a majority, was this: the offences are usually political; they are offences against the State; against the Commonwealth—political crimes against the whole people, in their sovereign character—against the Government of the people; against the people themselves. If that Government shall pronounce sentence against an officer, he should be removed, because it is a crime against the Government, and the Government has the right to fix the penalty. The case is not analagous to the trial by jury. The unanimity required in the verdict of a jury is identified with the great principle of justice, by which life, liberty and property are held secure; and if less than a unanimous vote of the jury be deemed sufficient, then the value of the trial by jury would be destroyed. It is that unanimity which makes it the trial by jury. It is a trial instituted by the Government, for the protection of the innocent, as well as the punishment of the guilty. But in cases of impeachment for official misdemeanors, the principle of a majority is in unison with the character and tendency of our system, and the principles on which our Government is founded. Our Republican institutions invest all the political power in a majority. Impcachments were instituted for the purpose of punishing crimes against the Government; and as the Government was founded on majorities, it was proper that a majority only, should be required for the removal of officers. Suppose a majority should vote for the conviction of a judge, what would be the result? Under the existing clause of the Constitution, he would remain in his office, although he retained his situation against the will of the majority. Could the community have any confidence in the opinions and decisions of a judge against whom a majority of the Senate had pronounced sentence? Would he be esteemed fit to administer the law, after the people had pronounced him guilty of high crimes and misdemeanors? Should such a man be allowed to maintain the supremacy of the law, when his judgments would be no longer respected? If the law is to be maintained in its supremacy, they who administer it must be free from even the suspicion of impurity. These were the reasons which induced him to vote for a majority. Much of the argument which he had heard on this question,

he regarded as irrelevant. The whole of it, he considered as now out of place, and his own opinion would depend mainly on the action of the Convention upon other articles not yet brought up for decision, particularly that which relates to the tenure of the judiciary, in which he viewed it indispensable to have some change.

Mr. EARLE observed, that he understood the gentleman from Crawford (Mr. FARRELLY) to say, that his vote would depend upon what was done in other parts of the Constitution. He (Mr. EARLE) had heard the like sentiments expressed by other gentlemen of the committee. If gentlemen would communicate their sentiments to each other, and thus obtain the information they require, why, then, it would be unnecessary to trouble the committee with further arguments on the subject. If it was not the general wish to make any change in this part of the Constitution, it would appear that some gentlemen were ready to vote ; for, some had said that their minds were unchangeable. Well, if that was the case, what was the use of urging the subject any longer. There were many reasons which could be urged in favor of postponing the matter. Doubtless, many amendments would be offered, and he knew one gentleman whose intention it was to offer an amendment relative to the future disqualification of judges, removal from office, &c. The gentleman from Northampton had given it as his opinion, that these subjects relate to other parts of the Constitution. Now, he (Mr. EARLE) wished to examine the other clauses, in order to see whether they embraced these points. In his opinion, they properly belonged to this clause, because it relates to the removal from office. However, as he had already intimated, he should like to look into the other clauses.

He hoped that the gentleman from Northampton (Mr. PORTER) would excuse his (Mr. E's.) colleague for misunderstanding him, as it was very natural he should. For, when we found a man coming here opposed to all change, and afterwards turning round and expressing himself in favor of change—zealously desirous of innovation—it could not be wondered at that his course should be misunderstood. He, (Mr. EARLE) in saying this, was actuated by no desire of giving a reproof, but merely stated facts as they were. When a gentleman reprobated a portion of his party, and did not reprobate the other portion of it, why, it was a very natural conclusion to suppose that he was opposed to change. Having said all that he purposed saying at this time, he would merely conclude with expressing his hope that the committee would rise.

Mr. PORTER, of Northampton, said that it was perhaps due to the Convention, and to himself, to say a word correcting misapprehension or misrepresentation of what he said yesterday on the subject of change. The question before the committee was, whether a change should be made in the number necessary for conviction or impeachment ; and as this had not been asked for by the people of any part of the State, and he believed it wrong in principle, he opposed it ; and it was in relation to this and similar proposed alterations that he deprecated a change. If gentlemen had listened, they might have heard him a week since, say, that his constituents desired certain changes, and that he and his colleagues were prepared to carry out their views. He never had said, he was opposed to all changes in the Constitution—some were necessary and called for, and ought to be adopted. But he deprecated such changes as would uproot all our sys-



tem and destroy confidence. The judiciary had been drawn into this debate. This was all out of place ; but as he had no concealment, he had no objection to state to this Convention, as he had to his constituents, when nominated, that he preferred the tenure during good behaviour.—That if it was required to limit their tenure to a term of years, he was not fastidious, but could only go for it, if provision was made to raise their salaries proportionably—that the services of the best men might be had. He felt anxious that we should have the best lawyers on the bench, and any measure calculated to produce this result would meet his approbation.—He had no notion of having half hands for judges ; that would, indeed, be one of the greatest curses that could be inflicted on the Commonwealth.—That he would not be willing, under any circumstances, to go for a less tenure than ten years. He had no idea of electing the judges every year or two, or of putting the names of all the lawyers in the State in a wheel, like so many jurymen, and draw out a competent number every December, to serve as judges for the whole State, for the coming year, or of any other such wild and crazy schemes. He was for reforming what was necessary, and clearly called for by the people, and not for change for mere change sake. It was this he deprecated.

Mr. M'DOWELL, of Bucks, said, as one of the majority of the committee who reported the amendment under discussion, he reluctantly felt it to be his duty to explain the motives which induced him to join in the report. He was sorry he felt constrained to do so at this time, as he deemed the discussion premature, and was anxious it should be postponed until the judiciary question was settled : he considered the two intimately connected with each other. In the event of judicial appointments being limited to a term of years, there is no difference of sentiment upon the subject before the House. Sir, (continued Mr. M'D.) I have reflected much and frequently upon this clause of the Constitution, and am not satisfied with its provisions. I believe, for all practical operations, it is a dead letter—it is inefficient and nugatory—the purposes which it was intended to accomplish are too difficult of execution—the means are too remote from the people. Entertaining these opinions, which have not been hastily formed, I was induced to unite in the report of a majority of the committee, not that the amendment, which that report recommended, was without exception to my mind ; but in the hope, that in the discussion, which I knew it would produce, a better suggestion might be elicited. In this, however, I have been disappointed ; and as it is, I am entirely indifferent about its adoption. I do not regret the time and the talent that have been spent in its examination.

The learned gentleman from the city, (Mr. SERGEANT) who addressed the committee yesterday, seemed to deprecate this amendment with a sort of premonitory apprehension. That gentleman, and others, appear to think the present Constitution the perfection of human wisdom, and one eulogium after another has been passed upon it, until some members of this Convention begin to think it treason to touch it. The great and the good men who formed that instrument, have been constantly held up to view ; their patriotism and their virtues, have been enlarged upon, in order to awe this body into an implicit obedience to their acts. Sir, no man in this Convention has a higher regard for, or more profoundly reverences the work of those great men, than I do. But sir, after all, they were only



rests upon us all, will not—I am sure, with the least reflection, it will not—be so lost sight of by ourselves, in any instance, as to produce a result different from what is expected of us. I am induced to make this remark, because, I perceive that we are getting into the habit of criminating each other for speaking too often. And, for the last day or two, I have heard it repeated, perhaps fifty times, that we are wasting time in speaking. Sir, there cannot be too much speaking, if it is to the purpose. We are sent here to debate—we are expected to debate, and we are expected to debate worthily the great subjects that are committed to us. How far any member of the Convention can throw light on subjects depending here, he, himself, must be the judge. And, being sent here as the representative of a large portion of his fellow-citizens, who know him, and have confidence in him, he has a right to speak, as with their mouth and their mind. Whether they will adopt it, or not, is an affair between him and them. I trust, that no member of this Convention will ever refrain from giving us the benefit of his views, on any question that will here arise. I am not speaking without book. The very law, under which this Convention is assembled, enjoins upon us to preserve our debates, and to give, through the means of a Stenographer, and his assistants, not merely the results of our deliberations, as a body, in propositions and votes, but the results of individual reflection of members, which means every thing here said on the subject. So far as any member may think proper to express his views, those views are to be preserved. Such is the requirement of the law.

This body is composed of different individuals—men of different temperaments and dispositions. There may be men here, as in most other bodies, who rise with great facility, in their places, and to whom it is no pain or effort, to address the Convention. There may, however, be others who are more sensitive or timid—who are retiring, but who perhaps, have not less good sense, and are not the less capable when they think it fit, and can endure the effort—to give us valuable information. Are they to be kept down? Are we to tell them that already too many have spoken? Are we in this Convention to create two distinct parties, like those in the House of Commons, the leaders of which alone speak, while the other members sit in silence looking on? Or, are we sent here, as has been said on another occasion, to assist each other in our deliberations, contributing what we can, and in our best manner—according to the capacity we have, and the courage that has been given us, to fulfil the purpose for which we were sent. There are many here who are accustomed to public speaking, and some who are not. It does not follow that all useful knowledge belongs to the former. The latter, if encouraged, are able to throw light upon matters in debate. It is our duty, then, not to chide and rebuke—but to encourage them—to make efforts to induce them to give us the fruits of their minds, as far as they are able. I do most earnestly entreat gentlemen to forbear doing any thing which shall have a tendency to discourage or repress those who have not yet addressed the Convention. I am one of those who may be ranked with those accustomed to public speaking at the bar and elsewhere: but have I right to say—“now we have done—I have spoken myself—the subject is therefore exhausted—I don’t wish to hear what others may have to say”? Remember, we are a semi-centennial body. It is nearly fifty years since the Convention which framed the present Constitution sat, and fifty more may

elapse before another may be called. We are not like an ordinary Legislature. We are legislating for posterity. The very composition of this Convention, shows that this view has been in the mind of the people of Pennsylvania. It is not made up altogether of young men—though there is a sufficient admixture, to carry down to our successors the oral evidence of what has been done here to preserve a tradition. But, as to the greater part of us, we shall never witness another similar occasion. Of the last Convention, which met upwards of 47 years ago, and which consisted of 63 members, there are but three now living. How many of us will be alive at the end of another period of 50 years?

I would remark that it is not by long, or frequent speaking that the reputation of this body, and its individual members is to be secured. But, it is by the value of what is spoken. And, when our debates come to be published and distributed among our constituents and the people throughout the Commonwealth, whether they be long, or short, the satisfaction they will give will be exactly in the proportion in which they are found to be to the purpose.

This remark is made in a spirit of freedom, and with the most perfect good feeling towards every member of the Convention. Already I perceive that the hints given here are taken and perused out of doors, and the opinion is expressed that we are exhibiting indifference to the business we are sent for; and, it is to be feared, that encouraged by the tone assumed in this body, we shall be charged with being a set of mere talkers, spending our time wastefully, and shall be so sunk in public estimation, that our labors will be condemned before they are understood. I hope every gentleman will consider this, and if he agree with me in opinion, he will refrain from what is calculated to send abroad such an impression. It is unjust, as well as injurious. As to the motion for the committee to rise, I trust that it will not prevail, because I think they ought not to rise until this question is decided. I deprecate the mixing together of several questions and going into a desultory, irregular discussion, instead of confining ourselves to the subject immediately under consideration. These are my views of the matter, whatever may be those of other gentlemen. It appears to me to be the most satisfactory and regular way of doing business, to finish one thing before we take up another. If you should think proper hereafter to modify the work which you have previously done, it is always in your power.

I make this remark in reference to what has fallen from the gentleman from Bucks, (Mr. M'DOWELL) chiefly in relation to the judiciary. This is not a question relating to the judiciary. It is as to the power of impeachment. And, although many things have been said on the subject of the judiciary, thinking them out of place, I shall not make any answer, at this time, to the observations which have been made, but shall content myself with waiting until it comes fairly up for discussion, and I shall have the benefit of hearing the opinions of many of the members of this Convention upon it. The subject is of sufficient magnitude to be discussed by itself. The gentleman just mentioned, in speaking of impeachment, made, what struck me, as a singular suggestion—that the party convicted by the Senate, may appeal to the people—that is to say, if he is an officer appointed for a term of years—and try their sense upon

the decision of the Senate, by seeing whether they will re-elect him. In order to obtain this object, the gentleman from Bucks proposes to strike out that part of the Constitution which enables the Senate to fix the sentence of disqualification. That is to say, to put the matter on this footing, that they may remove, but cannot disqualify. Upon this hypothesis, the officer who is removed, after conviction by the Senate, is to be heard by the people, and they are to decide whether he shall be appointed again, and thus to decide upon the decision by the Senate. Now, this is to suppose that every officer who is liable to impeachment, may be offered for election by the people. Such a clause as this assumes, therefore, that all the civil officers of this Government are to be made eligible by the people, and that no other mode of appointment is to be adopted.

Mr. M'DOWELL explained: I did not mean to say that the particular office for which the Senate may have disqualified a man, he shall be again eligible to; but that his having rendered himself disqualified to hold a certain office, should not prevent him from holding any other to which the people may choose to elect him.

Mr. SERGEANT resumed. Then, sir, you are to suppose that the officer may be disqualified by the judgment of the Senate, for a particular office, but may, nevertheless, hold any other. I would ask the gentleman whether he desires to see such a state of things in this Commonwealth, as, that a man, who, by reason of his conviction of an infamous offence, or of gross official abuse, is ineligible to one office, may, notwithstanding, be eligible to another? I put to him the case—his favorite one for illustration, if you please—that of a judge: A judge who has come under the sanction required by the Constitution, who has acknowledged his obligation to decide according to law and justice—which is the oath of a judge in Pennsylvania—and yet has received a bribe, and decided contrary to his own judgment and knowledge. Is it possible! Is it possible, in any country, having the slightest pretension to a form of government, that such a convict shall be allowed to hold any other office; branded with infamy, as he may be, according to the nature of the conviction; a violator of his oath; a practiser of injustice, oppression or fraud, for a bribe, for a mercenary object of his own; bearing upon him the everlasting brand of infamy, by being held ineligible to the office from which he has been driven, should yet be allowed to hold another office of equal or greater trust? What do you say of a man who has been convicted of a felony, or the *crimen falsi*—of that species of crime which is infamous? Is he permitted to sit in a jury box? No, no! Is he allowed to be heard as a witness? No: No man is required to sit alongside of him in the administration of justice. No man can suffer from his evidence against him. Until pardoned, he is incompetent to be a juror or a witness. Is not this founded in wisdom and good sense? Has not this Commonwealth held it to be right? And, are we to be told that the case of a condemned public officer is not even a stronger case for exclusion from public trust? But suppose you should let us pursue it a little further; not alter the Constitution so as to make every officer eligible by the people, but that some continue to be appointable by the Governor. Is it meant that the Governor be allowed to appoint a man, thus branded, to any other office in the Commonwealth? Is he, too, to entertain an appeal from the Senate? But look at it in another point of view. The people, in the case of elec-

tive offices, are, according to this theory, to decide upon appeals from the Senate; that body not acting in its representative, but judicial capacity. Now, I ask, if any man will say, that that is a fit appeal? This is coming upon ground which, unless carefully approached, is both delicate and dangerous. It is dangerous to deny to the people any capacity whatsoever. But yet, the people themselves acknowledge that there are certain things which they do not desire to execute, which they feel themselves incompetent to; and for this very reason they framed a Government, consisting of competent agencies, to do for them what they cannot, personally, do for themselves. Are not the people competent to do the executive business of the country? Are they not competent to do the legislative business of it? And, are they not competent to do the judicial business of it? Why, the answer is "yes". The people are competent to self-government. So is every individual competent to self-government, unless he is destitute of the ordinary portion of intelligence. But, do the people suppose that they can do with their own hands, every thing that is necessary to be done? Is it necessary to attribute to them in mass, to the whole body of the people, capacity to legislate, to judge and to execute. Is this the definition of self-government in a republic? Is any sober-minded man ready to make the judgment of a judicial tribunal examinable, upon appeals to the ballot box? When we speak of the people of Pennsylvania being competent to self-government, we mean that they are competent to form a Government for themselves, and to carry the powers of that Government into execution in the way best calculated to promote their happiness and prosperity. And when they want to alter their Government, they are capable of doing it. But an appeal from a tribunal acting judicially, to a tribunal of the people acting by the ballot box—for they can act, directly, in no other way—would indeed be a monster in government, and monstrous would be its issue. Such an appeal is out of the question. Nay, even with the restriction and qualification the gentleman himself has proposed to give it, it is utterly inadmissible, and liable to still another objection. The appeal from the sentence of the Senate, would not be upon the question decided by the Senate. It would leave that sentence in full force, and unreversed. The convict would remain a convict; he would remain disqualified by crime for the office he had held, and although a convict, unpardoned and unpardonable, would be rewarded and entrusted with another. This would be an anomaly, and it would be well if nothing worse could be said of it. Are there not honest men to be found to fill public employments?

What has been said—perhaps too much at length—is strictly applicable to the question of impeachment—upon *that* we are prepared to decide. Of the judicial character, and office, and tenure, I will not say one single word, until regularly before us. Injury may be done by unseasonable, imperfect and irregular notice of it. As respects the Constitution, however, which is now in part the subject of consideration, I will occupy but a few moments of time in what I have to say respecting it. The gentleman from Bucks is the second member of the Convention who has, I think, held out the idea that there is nothing in the nature and character of that Constitution which entitles it to any particular respect. Well, *that* may be; I will not now give it a general denial; we have not yet come to the time of a final judgment upon the whole. But, as we go on, arti-

Mr. FULLER wished to say a few words in reply to one of the positions of the learned gentleman from the city of Philadelphia (Mr. SERGEANT). The gentleman had taken ground, that the Convention had not been convened for the purpose of inquiring whether amendments should be made or not. Now, he ventured to assert, that the people of Pennsylvania had decided that amendments were necessary, and that the Convention was called for the express purpose of making amendments to the Constitution. The argument of the gentleman was, that because the whole people of Pennsylvania had not expressed themselves one way or the other, they were opposed to a change in the Constitution; and, that consequently, no change should be made. Now, if this principle would hold good, where would it carry us? If it would hold good in relation to the Legislature, you might say that your Senate and House of Representatives were elected by a minority of the people, because the people never all voted. If it would hold good in relation to your Governor, you might say that the Governor was elected by a minority of the people. On this question of amending the Constitution, it might be, that there was not a majority of the whole people of Pennsylvania who had voted in favor of it; as we all know, there are a large number of the people who do not always attend at the polls; but he would ask whether it was not a general principle, that those who do not attend the polls, are considered as agreeing, as acquiescing in the decision of the majority who do attend; they say to the majority who do attend the polls, we abide by your decision. He could see no reason for the construction put upon this matter, by the President of the Convention. If a majority of the whole number of the people were to govern, he feared it would be difficult on many questions, to obtain a majority; and if a majority was to decide in the election of our officers of Government, he feared we might be, in some cases, left without a Government. But, this was not the principle upon which any Democratic Government acted. The settled principle was, that those who neglected to attend the polls and give their votes, acquiesced in the decision of the majority who did.

Mr. BANKS felt some diffidence in rising to discuss the present question, after it had been so ably discussed by the President of the Convention, (Mr. SERGEANT) and other gentlemen. He had, however, ventured to rise, with a view of expressing his opinions in relation to some of the topics which were connected with the subject now under discussion, and he trusted he would be pardoned, if he should ramble, somewhat, when gentlemen took into view the course of discussion practiced upon, relative to the question now pending. When the question was first started before the committee, in relation to the amendment offered by the gentleman from Beaver, (Mr. DICKEY) the whole ground in relation to the independence of the judiciary, in relation to the tenure of the judges, and in relation to every civil officer who was subject to impeachment, had been travelled over by gentlemen who spoke on that amendment; and, this morning, almost every thing, which was in any way connected with the question of impeachment, had been touched upon by gentlemen who had gone before him. It would give him great pleasure to hear the presiding officer of the Convention discuss every question which came before the Convention, although he differed with him in relation to some of his conclusions. He entertained as high a respect for his sentiments, as per-



haps any gentleman in the body, in all matters which affected the interests of the people of the Commonwealth. In matters which related to the policy and politics of the Commonwealth, they might differ, but in that difference he trusted they should not have any cause of quarrel with each other. He was much pleased, that the gentleman from Crawford (Mr. FARRELLY) had expressed his views in relation to this subject, in the manner in which he had done this morning, and from the indications from that quarter, he trusted the Convention would be favored with other opinions which that gentleman seemed so abundantly able to express, when a proper time arrived for expressing them; and, he would say to the gentleman from Bucks, (Mr. M'DOWELL) who had given the Convention his sentiments in so able and eloquent a manner, as had been said, the other day, by a very talented gentleman, he would extend to him the right hand of fellowship. Although they might be found ranged on different sides, in the political affairs of the State, yet, he trusted, in relation to matters connected with reform in the fundamental law, and with the reform of the judiciary of the State, as had been evinced by the discussion of the question now pending, they would be found going hand in hand to all reasonable lengths. Not for the breaking down of all the checks of the Government—not for the destruction of the independence of the judiciary, as no reasonable man, let him be called by whatever name he might, ever dreamed of sweeping away, from the bosom of the Commonwealth, the independence of the judiciary. No judicious man ever thought of doing so. He, for his own part, was a reformer of errors and abuses, as he understood them, whether they related to the political or other departments of the Government, yet he did not desire that any thing should be done by the Convention, which should, in any way, cripple the independence of the judiciary. He would not, by actions of his, jeopard its independence. But wherein is that independence to be found? On what basis will you place it? Will you place it upon such a basis that it must be hedged about by some article in the Constitution, so as to make it impossible to approach it? Will you place it in the same relation to the people, as the laws of DRACO were placed, on pillars so high that the people could not read them, and then condemn them by those laws, of which they knew nothing.

Let the judiciary department inspire the people with confidence, and there is no danger of the independence of the judiciary. Let them love as they desired to be beloved, and there was no danger of the independence of the judiciary being destroyed, and Heaven forbid that it should be! As to this matter of change, of which there had been so much said, he would only say, that he did not go for change merely for the sake of change. When the gentleman from Northampton (Mr. PORTER) was crying out change! change! change! Mr. B. was reminded, very forcibly, of the anecdote of the Tory against whom PATRICK HENRY had cried out beef! beef! beef! Whether the gentleman had intended this as a parody on that, without intending more, Mr. B. did not know, and would leave it for the gentleman himself to say, but if any of us were made to writhe either on the one side of the House or the other, he did not think he would feel very comfortable, knowing, as he (Mr. B.) did, that gentleman's usual urbanity of character. However, friends sometimes wound the feelings of friends, in their zeal to carry a point, without intention.



Many gentlemen had given their sentiments to the Convention in relation to this matter of change. The gentleman from Lebanon (Mr. WEIDMAN) had told us his constituents did not desire any change in the Constitution of the State, and the gentleman from the city (Mr. BIDDLE) had given us his views, and so far as Mr. B. could understand him, his constituents did not desire change.

Mr. BIDDLE explained. He did mean, when he addressed the House, to have expressed the opinion of his constituents generally. What he said was, that they desired no change which could not be clearly demonstrated by arguments to be improvements.

Mr. BANKS knew the gentleman was the best judge of his own sentiments, and the arguments which would satisfy him; but, from what he could draw from the gentleman's arguments, he inferred that change was not desired by his constituents, and he would ask the gentleman if his arguments did not lead to that conclusion, when he spoke of the prosperity of the country for the last half century, and the happiness the people had enjoyed under the present Constitution. The learned gentleman from the city, (Mr. HOPKINSON) who spoke the other day, had pointed us to the doings of our fathers, which were to be looked upon with reverence by all, and had recited the history of that Convention which gave us the existing Constitution. Now, Mr. B. was willing at all times to accord to those men all due respect and reverence, and he regarded those names with as much respect as that gentleman, or any other gentleman on this floor; yet, high as he regarded their names, and their doings, and much as he accorded his approbation of all that had been said of them, there were "times, and places, and circumstances", which would make it necessary to dissent from their doings, which would make it necessary for us, taking into account our present condition, to reform, if you please, and to amend that which they gave us forty-seven years ago, as the fundamental law of the land. Surely, he said, it was not necessary to enter upon any comparison of the present, with what existed in "this good land of ours" half a century ago.

Sir, the President of the Convention, (Mr. SERGEANT) this morning, had spoken of the judges who might be impeached, and might have judgment of impeachment passed upon them, as convicted felons. Sir, have you heard from the side of the House which supports the report of the committee, from the commencement of the discussion to the present moment, such a term as felon used? No, sir, and the object must be to lay the question to some extent—that word was not used for nothing. It has not been supposed, much less used, because, the only effect of the judgment, after impeachment and trial of a judge, or other officer, is disqualification from holding office. Then, there is no felony in the matter—none at all. This was not a desperate case, and did not require the desperate remedy which some had used in relation to it. The question is not, whether the judges shall be allowed to hold office after judgment shall have been passed upon them. The Convention was then not called upon to act on this desperate case, and we had better keep it out of view for the present—"sufficient for the day is the evil thereof". If he was called upon to vote on that question, he might desire to take some time in the discussion of it. The gentleman from Bucks, (Mr. M'DOWELL) he thought, had stated, distinctly, how far the article should go in relation to judges,

who were condemned, after trial by impeachment, that is, that they should not be allowed to hold the same office, but that they might be elected by the people to some other office—let that be their affair. Now, as to whether this should, or should not be the case, Mr. B. had nothing to say at the present time; and, as to whether the committee should rise, report, and ask leave to sit again, he felt totally indifferent, because, provided the amendment offered by the gentleman from Beaver (Mr. DICKEY) was agreed to, and the committee did rise, as he understood it, all the articles in the Constitution will be disposed of separately, and then taken up collectively, and acted upon. If this was the case, it was no matter whether the committee rose this morning or not; because, amendments could hereafter be offered, the ayes and noes taken upon them, and they be disposed of in a satisfactory manner to the majority of the Convention. Yes, sir, the majority of the Convention—not two thirds, as had been moved by the gentleman from Beaver, and as was desired by those who acted with him. It was according to the spirit of our institutions that a majority should rule. A majority of the people disposes of all matters affecting their interests. Look at any institution in the Commonwealth, except the single instance of trying by impeachment, trying before a court of the Senate, (he spoke not of the trial by jury) and a majority rules. Go into any civil community, into any religious community, into any corporate community, if you please, in the State, and you will find a majority ruling—you will see every where a majority disposing of the interests of the whole, and protecting the interests of the whole. With respect to the moral guilt of a judge, he could not see what difference it made, whether he was found guilty by two thirds or by a majority. Would not the finger of scorn point as readily to a man found guilty of a crime, by a majority as by two thirds? Was not the moral infamy of a man, found guilty of a crime by a majority, equivalent to what it would have been, if he had been found guilty by two thirds or three fourths or the whole? and would not moral infamy attach equally to a person convicted by a majority, as by two thirds or any other number. In relation to the trial of judges, in 1805, before the Senate of Pennsylvania, as well as he recollected, there were seventeen of the Senators who were willing to find the judges guilty of oppression—not felony; and there were some eleven, twelve, or thirteen, unwilling to give a verdict of guilty. Well, now, as to the moral reputation of those judges, what difference did it make, whether two thirds of the body agreed to find them guilty, or whether there was but a majority for convicting them? By the present Constitution there was a hedge placed around them, so that they could not be legally touched, but, morally, were they not as guilty as though they had been convicted by two thirds? and were not the affections of the people drawn from them equally as much as though they had been convicted by two thirds? In conclusion, he wished merely to remind gentlemen—who had much more legal learning than he had, and who had given their attention to matters relating to the judiciary for many more years—that it was not the tenure of their offices which would make the judges independent, useful and respected, but it was the actions of the individuals themselves which would make them respected. In the language of Lord COKE, unless your judges so conduct themselves, as to have the affections of the people, they never can be loved, never can be respected, and never can be

useful in their day and generation ; and fence them about as you will, remove them from the people as you may, they cannot be respected or useful, and when their usefulness is gone, you had better dispose of them in the shortest time possible.

Mr. FRY said he was one of the committee on the fourth article of the Constitution and had agreed to the report of the majority of that committee. Since the report had been under consideration he had heard many able arguments against it, but still they had not changed his mind. He considered that there ought to be some means adopted by which the people could reach those high officers of the Government and call them to account for their misdeeds ; because when the people lost confidence in a judicial or other officer, he could no longer be useful. In his own county they had had some little experience in this matter. Their presiding Judge had been impeached, and after much time being spent in his trial, two thirds of the Senate did not concur in opinion that he should be removed. He again returned to the bench but the people were ever after dissatisfied with him. He was impeached a second time, and finally agreed to resign. Another Judge was appointed, and since that time the people were entirely satisfied. The gentleman from Northampton, in his argument in favor of retaining the number of "two thirds" as necessary to convict on impeachment, had, he apprehended, made a mistake, when he stated that the "two thirds" principle was contained in every state Constitution in the Union. Mr. F. had examined the Constitution of Massachusetts and New Hampshire, and he found there, that they removed Judges on the vote of a majority. For these reasons he had been induced to go with the majority of the committee in bringing in this report, and he still thought the adoption of it would introduce a provision into the Constitution, which would be a salutary check upon judicial officers. If, however, the Convention agreed to retain the two thirds principle, he should be satisfied. He declared himself favorable to the committee rising, so that those gentlemen who might have amendments to offer, would have an opportunity to do so. For his own part, however, he was prepared to vote now, if the committee determined that the question should be taken.

Mr. FLEMING should have contented himself without making any observations as to the propriety or impropriety of the amendment, had not the discussion in relation to it, opened up so wide a field of debate ; and had it not drawn in question the practicability of making any amendment to any part of the Constitution. He might say that his mind had been partially made up in relation to this part of the Constitution before he came to this place ; still he held himself open to conviction, if arguments good and sufficient were adduced. He confessed that he had been delighted with the arguments of the several gentlemen who had spoken on this subject ; still after all the discussion which had arisen he had not been induced to change the opinion he had first formed on the subject. He conceived that we ought to allow this article of the Constitution to remain as it was, and, moreover, he hoped the committee would not rise until they got an expression of the opinion of the committee in relation to the matter. He could not see why we might not as well give an expression of opinion on the subject to day, as next week, or at any future time.— He would ask gentlemen the object of the Senate of Pennsylvania, as now constituted. Why was it that Senators were elected for a term of

four years? Why was it that they served four times as long as the members of the House of Representatives? What object had the framers of the existing Constitution in view when they fixed the term of service of Senators, at four years, and that of the members of the House of Representatives at but one year? It must be obvious to every gentleman on the floor of the Convention, that it was intended that the Senate should be a check upon the lower House. That they might guard, in times of high political excitement, the rights of the people, independent of any particular feeling which might agitate the public mind. They were to save the people, if he might be allowed the expression, from themselves; and he would ask of gentlemen of more experience than himself, whether they had not seen times when the Senate, as at present constituted, was a safeguard to the rights and interests of the people of Pennsylvania? Sir, we have heard it said, by the gentleman from Philadelphia, (Mr. SERGEANT) that there had never been an expression of the will of the people of Pennsylvania, in relation to the call of a Convention to propose amendments to the Constitution. For his own part he was sorry that this subject had not agitated the public mind more; and he was sorry that the public press had not taken up the subject and given tone to public sentiment in relation to this question; but he could not agree that there had been no decisive expression of the public, in relation to the call of a Convention. It was alleged as an argument, and a conclusive argument, that forty thousand voters had refused to poll their votes on this question. But what was the question as it then stood? It was, as he understood it, will you authorise a certain number of the citizens of Pennsylvania, to assemble together as a Convention to propose alterations to the present Constitution? Now, sir, the indifference of these forty thousand voters, as to this question, he did not understand to be a conclusive argument that they were opposed to all reasonable alterations of the Constitution. He, himself, with many others, and they were perfectly honest in their opinions, had opposed the calling of this Convention. He had on two different occasions polled his vote against calling a Convention; and why? Because, sir, he did not believe the public mind was in that wholesome state, which prepared it to make such salutary amendments to the Constitution as it might be at some future day. He never was of opinion that there could not be improvements made in the Constitution. Mr. F. had as great reverence for the Constitution as any gentleman perhaps on the floor, and had always held in the highest estimation the framers of it, for they were patriots who were held in the highest estimation, not only in this country, but in all parts of the world. But, loth as he might be to express sentiments counter to those of gentlemen so much further advanced in years, and of greater experience than himself, he believed, limited as was his experience, that some wholesome amendments would be proposed to the Constitution. Such ones, now, have been proposed to this Convention, and, he doubted not, would be adopted and submitted to the people for ratification. If there never had been an expression of the public mind in relation to calling this Convention, he would ask the gentleman from Philadelphia, why it was we were here? Why is it that we are here discussing this very matter in relation to amending the Constitution, if there never has been any expression of the public mind in relation to this momentous subject? He spoke of this subject as a matter of great

importance, not that he believed we had the whole rights and interests of the people of Pennsylvania placed in our hands, but he spoke of the acts of the Convention as of great importance, because of the influence they would have upon Conventions hereafter to be called, and he did not think it would be claiming too much for this Convention, to say that its acts might greatly influence any Convention which might be called hereafter. He had then come to the conclusion that the refusal of the forty thousand who did not vote on this question, was not a conclusive argument that the people had not called this Convention to propose wholesome provisions to the Constitution in lieu of others, which they considered defective. He did not now wish to detain the Convention with any further observations; because, in the examination of the Constitution, he foresaw that there would be other places where he would have an opportunity of expressing his views. He hoped the committee might not now rise, but that they would have an expression of opinion on the subject. If any gentlemen were disposed to give their opinions, in relation to this matter, he would listen to them with all due deference, and if they could convince him he would go with them. He had not bound himself down to his opinion, but wished to hear all the arguments which could be adduced on the subject, and if they would convince him that he was in error, the best he could do, would be to change the erroneous opinion for the correct one.

Mr. CURLL said he did not rise to trouble the Convention with one of the four thousand seven hundred and eleven speeches so accurately calculated and noted the other day by the gentleman from Bucks, (Mr. M'DOWELL) but merely to offer a few remarks to the committee on the subject before them. When he first came here, he did not expect that the Convention would have spent so much time in discussing the proposed amendments to the articles of the Constitution reported on by the standing committees. He had none, and he thought his constituents had no idea that any thing would be offered as amendments to those two articles. He had, however, been pleased and edified by the arguments which learned gentlemen had adduced on this occasion. The judiciary question had been involved, but on that subject he was not now prepared to say any thing but as regarded the two third principle on trial before the Senate, he was now prepared to vote, and satisfied that the committee rise. But, although he did not feel tenacious on this subject, he was one of those who did not believe so much in the perfection of the Constitution that no alterations or amendments for the better could be made to it. Several gentlemen had asserted that they desired no change at all. It had also been asserted that there was not a majority in the Commonwealth in favor of amending, and insinuations thrown out, that if all the people had voted the result would have been otherwise.—The preamble to the act of Assembly, providing for the election of delegates, led him to differ in opinion with the learned President of this body, with whom he would be glad to agree in many things. That preamble read as follows: “Whereas, in pursuance of an act passed the fourteenth day of April, one thousand eight hundred and thirty five, the freemen of this Commonwealth have *by a decided majority*, determined that a Convention be holden to propose and submit for their ratification or rejection a new State Constitution, &c. Now, sir, here it is declared that a *decided majority* of the people had determined that a Convention should be held and for what? What was the object of



this Convention assembling here? Was it merely, as some seem to wish, to give back to the people again the Constitution in its present form? Or was it not for the purpose of submitting amendments to the people? Certainly the latter, sir. On the same parity of reasoning used by gentlemen we might say we have a minority Governor, and a year ago a minority Legislature, that had brought evils upon the people of this Commonwealth that he trusted this Convention would try to avert. He was for reform, sound and salutary; so were those he had the honor to represent; he wished to give back to the people their inestimable rights, and restore to them the true principles of Democracy, based upon the Declaration of Independence. But why is it that we democrats are so anxious for reform? Sir, it is certainly from the most pure and patriotic motives—twenty-eight out of thirty-eight years we have enjoyed the loaves and fishes, and never having been beaten more than three years at a time, he (Mr. C.) had intended to infer that the power would shortly return into our hands again and the loaves and fishes with it. But he was for limiting Executive patronage. He was in favor of abolishing all life offices; he held one himself, but was ready and willing to surrender it to the people. He wished to see the Constitution purged of all its aristocratical impurities—and although he bowed respectfully to its provisions, and the majesty of the laws made in pursuance thereof, still he bowed to the experience of forty-seven years; and so wished to amend the supreme law of the land to comport man with the circumstances and wishes of the people of this day. He hoped the march of intellect in Pennsylvania was not retrograde, but onward with the other improvements of the times. He would detain the committee no longer, and he hoped they would rise.

Mr. CHAUNCEY, of the city, said, the Convention had now been in session three weeks; and it had appeared to him that there was some misapprehension as to the powers of this body. It seemed to have been taken for granted that we were to make some amendments, and that this duty had been expressly imposed upon the Convention. For one, he would say, that he considered the office of a loftier character than that. We had come here without restraint or instructions. No course had been dictated to us, except to take up the Constitution in review, and to submit such amendments as we thought proper; not to make amendments, and submit them, whether we thought proper or not. He thought he could see how gentlemen's minds had been led away in this matter; and he was sorry to say that he imputed it to the Legislature, which, in the act concerning the Convention, had given it a character which the people had not intended to give it. The act which was the source of our authority, was passed the 14th of April, 1835, and is entitled "an act to provide for calling a Convention with limited powers". The first section of this act, was as follows:

"SECT. 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in general assembly met, and it is hereby enacted by the citizens of the same, That for the purpose of ascertaining the sense of the citizens of this Commonwealth, on the expediency of calling a Convention of Delegates, to be elected by the people, with authority to submit amendments of the State Constitution to a vote of the people, for their ratification or rejection, and with no other or greater powers whatsoever; it shall be the duty of each of the inspectors*



of votes for the several townships, wards and districts in this Commonwealth, at the next general election, to receive tickets, either written or printed, from the citizens thereof, qualified to vote at such general election, and to deposite them in a proper box or boxes, to be for that purpose provided by the proper officers, which tickets shall be labeled on the outside with the word "CONVENTION"; and those who are favorable to a Convention, to be elected as aforesaid, with limited powers, as aforesaid, may express their desire by voting, each, one written or printed ticket, or ballot, containing the words "For a Convention, to submit its proceedings to a vote of the people"; and those who are opposed to such Convention, may express their opposition by voting, each, one printed or written ticket, or ballot, containing the words "Against a Convention"; and all tickets containing the words "For a Convention", and all containing the words "Against a Convention", shall be counted and returned, whether other words be or be not added".

The Legislature, in their act of last year, fell into an error as to the character of the Convention, and led us into an error also; an inference was drawn from that law which was not correct. It recites that the people of this Commonwealth have, by a decided majority, determined that a Convention shall be holden to propose and submit for their ratification or rejection "*a new State Constitution*". The people had determined no such thing, sir. The people merely voted on the question, whether there should be a call of a Convention or not. They never voted on any question concerning the duties of the Convention. They gave their assent to a Convention of limited powers, under the act of 1835, and to no other.

He would say a very few words as to the clause proposed to be amended, though he was aware that the question was on the motion that the committee rise. The committee had appeared to be almost unanimous on this clause. There were only shades of differences in the opinions respecting it; as far as the great principle was concerned, it was almost the unanimous sentiment that it should remain unchanged; and he rejoiced that it was so. After a study of our Constitution for several months, preparatory to the discharge of his duties here, it had never once occurred to him that this article was to undergo any change. Looking abroad, he saw that all the States in the Union had followed the provision, which we adopted more than forty years ago. In regard to the power given by this clause to the Senate, he had felt no small degree of dissatisfaction at it, arising from the very strong opinion he had always entertained of the necessity of keeping all the co-ordinate branches of the Government as distinct as possible. But he only alluded to the Court of Impeachment, in those cases where the accused could not, with propriety, be brought before an ordinary tribunal. In the country from which we drew our laws, the Court of Impeachment was the House of Peers. There was always found a vast body of legal, constitutional, and judicial learning; and there the arraigned officer always had the best security which the laws of the land could afford him. The vital principle of a jury trial was unanimity. Whence arises this, and why is it a subject of so much commendation? This jury trial is intended for cases involving property, reputation, liberty and life: and the jury is made up of different materials. Unanimity is required, in order to prevent the possibility of partiality, or

bias ; for a single man of the number could prevent a verdict. Now, what is the character of this high Court of Impeachment, and what are its securities and restraints ? Are not its members collected under the party influence which pervades the country ? Are they not bound together by party ties ? Can we look to such a tribunal for the faithful administration of the laws ? Can we look to them, with security, in times of excitement, as a body of triers, safe from any influence around them ? Shall we not, (said Mr. C.) give to our Judges the same degree of security from malicious accusation, that we give to the humblest offender against the laws, when he is punished by an inquest ? It was essential, in his opinion, that the whole body should unite, in order to convict a person ; but we had required only the concurrence of two thirds. Shall we (said Mr. CHAUNCEY) do away with the provision ? We have heard many able arguments in favor of retaining it, and, yesterday, we adjourned, under the impression that to-day we were to hear the arguments of gentlemen who were opposed to it ; and, it was taken for granted, that those who proposed any change in what he was not afraid to call our “matchless” Constitution, would be prepared with some strong and substantial reasons for the change. But what had we heard ? Two gentlemen of that majority had spoken, and neither of them had supported the amendment. They both went upon the ground that the penalty to be inflicted by the vote of a majority, was not to extend to future disqualification from holding any office under the Commonwealth. But a disqualification for the office in which a person has served, is as deep a disgrace, in the eyes of the virtuous and enlightened, as a disqualification for all other offices. The committee report as follows :

The majority of the committee to whom the 4th article of the Constitution was referred, respectfully report :

That they have had the subject under consideration, and have agreed to report the 1st and 3d sections of the said 4th article of the Constitution without any alteration, and the 2d section of said article, with one amendment, viz : To strike therefrom the words “two thirds”, and insert in lieu thereof “a majority”, so that the section may read as follows :

SECT. 3. All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation. No person shall be convicted without a majority of the members present.

The alteration which had been recommended by the two members of the committee, who had spoken, forms no part of their report. He did not find it in the report itself ; but that brings before us the naked proposition to substitute a majority for two thirds, as the number requisite for conviction, in all cases of impeachment. What would be the result of this change ? It was said, that it would bring all judicial officers nearer to the people, in point of responsibility. It was also said, that a conviction under an impeachment would be almost impossible, under the present system. He hoped it would always be impossible, until two thirds were convinced that the accused was guilty of the charge of violating his duty ; and he was also in favor of such provisions as would render them independent in the discharge of their duties. I will not, at this time, (said Mr. C.) enter upon an argument on the great question of the judiciary—that will find its proper place. But, one remark he would make : in forming a judiciary system for the Commonwealth, it should be our

object, so to frame it, as to enable us to secure the services of the best and wisest men. We could not expect a Constitution to work wonders in the hearts of men. In reference to all public men, it was a great object to remove from them all temptation to a violation of their duty. When this provision was sent forth to the people to be adopted, it would be asked, whether it was in the spirit of wisdom and justice. Some gentlemen have complained that the judges were too far removed from the people—that they should have, not only the fear of God, but the fear of man. But, if they had the fear of God before their eyes, they need have no other fear. Both we, and they, will then be safe.

It was our duty to make such provisions as would secure the services of the best and wisest men; and are we not, he asked, putting a fence around them, if, by such a provision as is now proposed, we suffer them to be turned off, perhaps, without fault, but with infamy and disgrace. The proposition of the committee he considered as wholly inconsistent with the great objects of a Constitution.

Mr. CLARKE, of Indiana, hoped, he said, that we should be able to get the question on the rising of the committee. He had been much edified, and, as he hoped, enlightened, by the able and interesting discussion that had taken place in the committee, during the last four days. He would not have risen, but for the purpose of commenting on one or two remarks of the gentleman who had just sat down. That gentleman had expressed the opinion, that we derived our authority from the act of the Legislature. He would ask where the Legislature got their authority? There was a provision in the Constitution, setting forth, that government was instituted for the freedom and happiness of the people. The people had manifested some dissatisfaction with the existing Constitution. In 1825 they petitioned, very generally, for a Convention to alter it, and they were refused. They had petitioned again and again, until it was granted. The Legislature pointed out the mode and manner in which the Convention was to be elected and assembled. The act gave us no more authority than if the mode had been pointed out by the members in a caucus, instead of acting in a legislative capacity. They could have pointed out a mode equally good in their individual capacities. We derived no authority, therefore, from the fact, that the Legislature passed an act, pointing out the mode of electing members of the Convention. After the election was complete, that act became mere blank paper. One thing only we were bound to do under the act, and that was, to submit our proceedings to the people. So far as the people had fully and decidedly expressed an opinion, we were bound to obey it, and no farther; but to the Legislature we were in no way accountable. We were answerable, not to the servants of the people, but to the people themselves, and from these alone was our authority derived. He had taken occasion to make these few comments on what he had understood the gentleman to say. He had listened with delight to what had fallen from the PRESIDENT, with the exception of one thing. That gentleman had remarked, that the inference to be drawn from the fact, that forty thousand of the electors did not vote, was, that they were either indifferent to the Convention or opposed to it. Now, he (Mr. C.) thought, that a large portion who voted against the Convention were in favor of it. But he refrained from voting for it, because party spirit ran so high in the State. In regard to the large ma-

majorities of Berks and Northampton, against the Convention, he said, if the members elected from these counties were opposed to all amendments, it would be no proof that the people were opposed to the Convention. Mr. C. was aware, he said, that he had travelled out of the record, but the question had taken this turn before he rose.

Mr. CHAUNCEY replied, that he agreed with the gentleman who had just taken his seat, that all power was in the people. But how has the popular voice been expressed, except through their constituted agents? He acknowledged the supremacy of the people; he was one of the people himself, and came here to represent them. He said he heard much of what some gentlemen chose to denominate the voice of the people, and the wishes of the people in reference to alterations of the Constitution. But in what manner has this voice been expressed? Are the views of a single meeting, in a single county, or in a single Congressional district, to be taken as the sentiments of the whole Commonwealth? He had no objection, that any delegate should bring such views before the Convention, in order that the public sentiment of the whole Commonwealth should be embodied, but he did object to the assumption that the people of the whole Commonwealth had spoken, except through their constituted organ.

Mr. KEM, of Berks, said, that although not pertinent to the immediate question before the House, yet he deemed it his duty, as allusion had been made by several gentlemen to the *conservative* character of Berks county, to explain the views of his constituents, as he understood them. The people of Berks county were accustomed to revere the acts of their ancestors; none were more firmly attached to the institutions of the country than they, and none more indisposed to unnecessary change. Even with admitted errors in the Constitution, they had cherished that instrument, rather than incur the risk of another, which might be worse. Such he believed to be the feelings of his constituents on the question of "Convention" or "no Convention". During the interval of time, however, that occurred between the action of the people on the Convention question, and the selection of delegates to that Convention, the people had witnessed a stretch of privilege by the Legislature, which they thought was never intended by the Constitution, in the incorporation of a moneyed monopoly, greater in power than the State itself. This act awakened them to a sense of the danger to which they were subjected, unless, by a united exertion, they expressed their solemn disapprobation thereto. At the election to send delegates to this Convention, both parties gave written pledges: the delegates of one party now here, were pledged for reform; and those of the other party, were pledged to sustain the old Constitution. Such was the question plainly before the people, and they decided, by a majority of nearly three thousand five hundred, out of about six thousand votes, that efforts should be made to bring back the Constitution to its original meaning and intent.

The people do ask a change; that the power now exercised by corporate bodies, to the detriment of equal rights, ought to be limited or abolished; he would not say "*expunged*", as that did not seem to be the favorite word of this Convention. There was also another evil now existing, in which a change would be desired, and that was, the taking of private property for public improvements, without just compensation being *first*

made. They also desired, that the patronage of the Governor should be reduced : that the elective franchise should be extended as widely as possible, and that in every department of government, whether Legislative, Executive or Judicial, an immediate and direct action of the people may occur in the choice of those who are to administer that government. On the question before this House, he exercised his private opinion, and hoped the fourth article would pass without amendment, on the principle, that as impeachments assimilate in character to trial by jury, the greater number that decide thereon, the greater the safety of the accused from groundless charges, or the effect of political excitement.

Mr. PORTER, of Northampton, said, that as the county he in part represented had been referred to as opposed to the call of the Convention, it might be proper for him to say, that when the vote on the call of a Convention was taken, the party to which he belonged was in power, and it was not usual for people who had power willingly to give it up ; and that the principal vote for the call of the Convention proceeded from the opposite party. But that now the tables were turned. Before they got into power, the friends of the present Executive were strenuous advocates of reform, but having the power now, they seemed to have changed their views : “ circumstances alter cases”, and this was exemplified in the present position of the parties. The truth was, however, that the question of Convention or no Convention, was not made a party question in the election in 1835, and although the people of the county of Northampton had then thought the times not to be propitious for calling a Convention, still, neither they, nor their representatives were opposed to all change. They thought certain amendments necessary, and would insist upon them.

Mr. DUNLOP said the gentleman from Indiana did not go along with the party in his opinions as to the right of the Legislature to speak for the whole people. The Democratic doctrine, as held by other conspicuous members of the party, was that the Legislature was always a true and just exponent of the wishes of the people. The gentleman must have abandoned his former opinions ; for, when he belonged to the real democratic party, he did hold the opinion that the Legislature was to be obeyed, as expressing the sentiments of the people. The same opinion was held by another member of the real, patent, democratic party—he alluded to a Senator of the United States—and once, but not now, a member of the Legislature of this State—an individual for whom he entertained, previously, a high respect ; and, for whom, let him go astray after false gods as he may, he would never entertain any but the most friendly and respectful sentiments. This gentleman—the very jewel in the Jackson crown—the very star in the Jackson galaxy—in a letter which he wrote to the people of the Northern Liberties, promulgated the doctrine to his darling followers, that the glory of the party was in the glory of its chiefs ; and declared that he would bow with deference to the people on all occasions, and be obedient to their instructions, as received through the Legislature, without any exceptions for his conscience, or his honor, or his duty to his country, either at home or abroad ; and, even although he might know that the instructions were pernicious in character and tendency, and that they did not express the sentiments of the people of Pennsylvania. On the night of the black lines, when the records of the country were defaced,



that gentleman obeyed the instructions of what? Of a Legislature which represented a minority party of the State. Though satisfied that they did not express the opinions of the people, yet he held himself bound to obey their instructions. How inconsistent was this doctrine, with the sentiments of the gentleman from Indiana. On one side was a real patent democrat, who was obedient to the Legislature which he was satisfied did not express the voice of the people, and, on the other hand, another member of the same party refuses to recognize the Legislature as the organ of the wishes of the people. He understood the gentleman from Indiana to say, that we were not bound to regard the act of Assembly as expressive of the sentiments of the people—that we were not bound by the democratic voice of the people's representatives—though they authorized a Convention with limited powers, authorizing them to deliberate upon the Constitution, and requiring them to submit the amendments which they might agree upon, to the people, for their adoption or rejection. This provision was made for curbing those opinions which might have burst forth in this Convention—the opinions in favor of breaking charters and infringing vested rights—the opinions which were held out in the furious letter to the people of Bradford county. The people were unwilling to trust to a Convention when such radical doctrines were prevalent. It was for the purpose of curbing and restraining them that the Legislature limited the powers of the Convention. The people had become alarmed, and they, therefore, instructed the Legislature to provide that the amendments should be submitted to them for their adoption.

Mr. MEREDITH had not intended to say any thing on the question, but as it had taken a much wider latitude than he had anticipated, he would offer a few words on the subject, in reference to points which had not been touched by gentlemen who had spoken. If those points had been explained by others, he would not now have obtruded himself on the notice of the committee. It was his opinion that the Convention ought not to consider any article of the Constitution in the light of an isolated proposition, unconnected with the Constitution as a whole. The whole of the ground ought to be taken into view; and every proposition should be considered, not as a naked proposition, but in reference to the whole frame of Government. The great object of those who formed our Constitution, was to carry out the principles of free government; and while they protected the rights of the people as a body, they especially contemplated security to individuals. In looking to that Constitution, we are bound to regard it as a perfect scheme, all the parts of which are necessarily and intimately connected; and in the task of its revision, it becomes us vigilantly and sedulously to guard against every effort which may impair its integrity, or disturb the principles on which it was constituted. What were the principles which the framers of the Constitution kept in view, and to the establishment and perpetuity of which they directed their labors? He took it to be indisputable, that they constructed their fabric on the foundation, that all power emanates from the people, that it is deposited with the people, and ought to be used by those who are entrusted with its agency, for their benefit. For some years past, we have heard a party cry raised, as if there was some portion of the community disposed to deny the correctness of this principle, or at least to deny it in its practical effect. Looking back, however, to the earliest period, he had not been able to find



that any other principle was held by the body of the people: he found no party advocating any opinions in opposition to it; but, that in all the contests of opinion concerning men and measures, the supremacy of the people was universally, and at all times conceded.

The next principle which was kept in view, as far as possible, was that no irresponsible power should be created in the Commonwealth, and that the accountability of agents should be enforced. All public functionaries were required to be made responsible to the laws, as they always are to public sentiment. In accordance with these principles, the Legislature commenced by dividing the delegated power of Government into three distinct branches—Executive, Legislative and Judicial—each so constituted, as to be a check on each of the others. It was apprehended that the Legislative, being the most powerful branch, might control and swallow up all the other branches. Men were selected as representatives, either from personal or political motives, and their influence might be exerted on either the Executive, or the Judicial branch. Then arose the question—how is the Legislature to be held in check? How can it be prevented from mingling with the other branches of the Government? The check of the mere parchment was nothing, and the only mode of securing the people, was by a resort to the ballot box. This was the only mode by which the Legislature could be kept to its responsibility, so as to be safely entrusted with the powers of a Judicial tribunal, in cases of impeachment, under the Constitutional check, which required a concurrence of two thirds for conviction. Gentlemen had said, that the judges are not the people. He would reply—the Legislature are not the people. Both are the agents of the people, entrusted with high powers, and important duties. In an impeachment the question was, how should the Legislature check judicial misconduct, until the people could be brought to act on the subject? This was done by requiring the concurrence of two thirds. Another question was, what check should be imposed on the Legislature, against the abuse of its legislative powers? A control was deposited in the hands of the Executive, by requiring that the consent of the Executive should be necessary to the passage of laws, thus creating the power of the veto. But, of what avail would be this check, if, by abolishing the necessity for the concurrence of two thirds, in cases of impeachment, it shall be left in the power of a mere majority of the Legislature, to turn the Governor out of office? The Legislature would thus be left without check. The principle of two thirds, therefore, was not introduced so much to protect the officers, as to preserve the rights of the people. The power of impeachment was of necessity, lodged in the Senate, and it was necessary to introduce the principle of two thirds, as guards and checks, by which the balance and stability of the Government might be secured. Thus we find this great principle, which was not borrowed from foreign precedents, but which grew out of the necessities of the case, recurring throughout the whole Constitution. It was for the preservation of the rights and privileges of all, that these clauses are introduced; and, therefore, he was opposed to the removal of any of those clauses which had been placed in the Constitution. Without them these entrenchments of parchment which we have raised for the protection of the people against the encroachments of power, are of no use; and if we break down these checks, the encroachments of power will soon be visible in the relaxation

of that bond of responsibility, which now restrains the Government to its proper sphere.

Mr. EARLE said, that he wished to caution the Convention against a misconstruction of the observations of the gentleman from Northampton, (Mr. PORTER). When that gentleman said that he was not in favor of electing the judges every year—that he was not in favor of drawing them by lot out of a box—that he was not in favor of half judges—that he would not sustain crazy ideas of reform—the Convention should not understand him as intimating, that any of the reform members of this body, were advocates of such measures, or as applying his observations to any of the reform delegates, but rather to some persons about the borough of Easton. If any should erroneously imagine otherwise, he (Mr. E.) would assure them, that he was well acquainted with the sentiments of most of the reform delegates, and that there was not one of them in favor of any one of the ideas alluded to. It was true, that they were aware, that in one of the States of the Union, the Judges had been elected annually, for upwards of two hundred years, and that in that, as well as in other States, where the same term prevails, the people are satisfied with its operation, and not willing to relinquish it: yet there is no member of this body, that desires so short a term to be proposed by this Convention for adoption by the people of Pennsylvania. There is no considerable number, if indeed there be any at all, that advances crazy ideas on the subject, unless it be deemed insanity to agree with the common sense of mankind, and to approve of the institutions long practised and approved in divers States, and in divers ages. Such views may be deemed crazy by those who, knowing little of history or experience, think a thing good or bad, according to whether it was practised or was not practised on the farm of their father. Such men judge of insanity, like the man in the Hospital, who declared all the rest of the world insaue, and himself alone, of sound mind.

There has been, this morning, some gentle reproof against checking the freedom of debate, and maturity of discussion. He (Mr. E.) coincided with those views. He had, in the making of the rules, supported the proposition of the gentleman from Montgomery, to restrict the application of the previous question, because he knew there was danger that gentlemen, after having expressed their own views, might think a subject sufficiently discussed, and inconsiderately restrain the expression of the sentiments of others. Yet while he desired the utmost opportunity for full discussion, he thought that such discussion should, in the first place, be directed to those great points of reform which the people had in view when the Convention was called: that it would be better not to force members into a discussion of that for which they were not prepared, and about which their conclusions would depend on what should be done in other parts of the Constitution. The only gentlemen who had suggested the policy of conviction, on impeachment, by a majority of the Senate, had stated that this would be the case with them. They had said they were unprepared to vote on this article, before they knew whether other remedies would be provided; and for his part, he desired that they should be indulged: and he desired that the merits of the proposed reforms of the Constitution, should be examined in preference to those of our Minister at Petersburg, and our United States Senator at Washington.

Something had also been said of the propriety or impropriety of introducing the judiciary into the consideration of this article concerning impeachments. He believed that all the impeachments, in this Commonwealth, had been of judicial officers, and hence the question of the sacredness and infallibility of the judiciary, had some connection with this article. However that might be, it had first been introduced, in this connection, by the conservatives; and they could not justly censure others for replying to their observations.

It was said that two members of the Convention had declared that the present Constitution was entitled to no particular respect. He, as one of those two, had not wished to assail unnecessarily the present Constitution, nor those who made it; but those who were against altering it, had, in the first place, proclaimed on this floor, that they *reverenced* the instrument and its authors. They could not then be surprised, that others, before bowing down to their idol, should examine its claims to reverence. On this subject, he would refer to an additional piece of history, that of the attempt in 1783, to introduce a Constitution like the present, when a protest was made, signed by JOHN SMILEY, WILLIAM FINDLEY, and other members of the Council of Censors. in which they said what experience has since proved, that the proposed Constitution would "introduce new aristocratic ranks", such as the life judges, of whose sacredness we had already heard so much, and "an executive magistrate, with powers exceeding the ordinary lot of kings". The result of that proceeding was, that 18,000 citizens proclaimed against the change, and less than 3000 in favor of it. It was, therefore, abandoned for that time, but was effected afterward by stratagem, without regular authority from the people.

The question is again and again agitated here, whether a majority of the people desire the amendment of the Constitution. That is a question for each gentleman to settle in his own mind. There is such a thing known among lawyers as *prima facie* evidence—good, title disproved. There had been a majority of 13,000 and upwards, for a Convention, which was good *prima facie* evidence, that the people were for it. But it was said that 40,000 did not vote on the question. If so, we might come to a conclusion, by the best evidence within our reach, as to the sentiments of the 40,000, and of the whole people. What was this evidence? The counties of Lehigh, Northampton, York, Berks and Centre, which had given large majorities against a Convention in 1835, had now sent here delegates decidedly for reform; delegates who had avowed their sentiments before their election. They say that their constituents are for reform, and that there were peculiar reasons which governed the vote in 1835. Mr. E. believed, that at least three fourths of the delegates of this Convention, were the open and avowed friends of reform, at and before their election, and that not more than ten were avowedly opposed to it when elected. Was this no evidence of the sense of the people?

What was the object of this constant agitation of the question, whether the people wished us to do any thing? Could gentlemen expect to swerve the delegates of the counties above named? That was a vain hope. Could they expect to induce the delegates from Washington, Allegheny, Beaver, Warren, and Erie, where such strong majorities for reform were given, to desert the people, and to abandon their express or implied pledges? Every delegate who professed himself for reform, when elect-

ed, was as much bound, in morality, to support it, as if he had given bond to do so, signed and sealed. If the object be to show that we are bound to propose injudicious reforms, let us admit it, and let us come at once to the merits of those which have been long agitated; let gentlemen, then, on those points manifest those powerful talents, much vaunted in certain papers, which never admitted talents to exist, except on one side. Let them demonstrate, by reason, history, and experience, that their views were sound and conclusive. If we cannot maintain the contrary, let us fall at once.

The gentleman from Philadelphia, (Mr. CHAUNCEY) had said, that he desired judges to be independent of the fear of men, and governed by the fear of the Creator. Suppose a judge should be appointed who should prove not to be one of this stamp; suppose a man, just and temperate when appointed, should become unjust and intemperate afterwards; as Solomon was said to have departed in age from the virtues of his youth; would the gentleman, under the idea of sacredness in the judicial character, suffer such a man to remain in office? Impeachment would probably be an insufficient remedy, and hence he (Mr. E.) would adopt a better one. He had no objection to the impeaching clause being stricken out of the Constitution, except that some people might be told that we were establishing the code of DRACO, &c., &c. Hence he would let it remain. He would have no objection to requiring a unanimous vote of the Senate to convict on impeachment, if there were another and better mode of removal or change also provided; for then, perhaps, none would be so unwise as to vex themselves and the Commonwealth with the tedious, expensive, and useless process of impeachment.

Mr. BARNITZ remarked that the discussion which had taken place on the matter before the Convention, had given an opportunity to gentlemen to discuss, incidentally, some very important questions, and among them the powers of this body as existing under the acts of Assembly. Having a desire to speak on the subjects adverted to, more fully than he should have time to do to-day, he moved that the committee rise, report progress, and ask leave to sit again on Monday.

The order having been agreed to, the committee rose, reported progress, and obtained leave to sit again, and

The Convention adjourned.

MONDAY, MAY 22, 1837.

Mr. **HIESTER** obtained leave to introduce the following resolution, which was read twice, and agreed to :

*Resolved*, That the minutes of the proceedings in the committee of the whole be read every morning, immediately after the reading of the journal of the proceedings of the Convention, unless the same shall be dispensed with by a vote of the Convention.

The journal of the committee of the whole was then read.

Mr. **EARLE**, of Philadelphia, submitted the following preamble and resolution :

**WHEREAS**, some members of this body are desirous of discussing the question of the extent and ultimate limits of the powers of this Convention ; And whereas, such question, however interesting and instructive abstractedly considered, has no necessary nor proper connexion with the discussion of the amendments reported by the standing committees, inasmuch as the power to propose those amendments to the people is entirely undisputed: And whereas, it would be highly inexpedient to consume the time of this body, during its regular sessions, upon subjects of a speculative nature, before agreeing on the principal practical reforms which were contemplated by the people at the time of the calling of this Convention. Therefore,

*Resolved*, That the use of this Hall, so far as this Convention has power over it, be granted between the hours of four and six o'clock in the afternoon, for three successive days, to those delegates who may desire to deliver public addresses or lectures upon the powers of the Convention, so that the same may be excluded from unnecessary introduction during the regular business of each daily session.

The resolution having been read, it was about to be laid on the table, when

Mr. **DENNY** asked for its immediate consideration.

Mr. **READ**, of Susquehanna, called for the orders of the day, and the Chair having announced the orders of the day,

Mr. **READ** from the committee on the sixth article of the Constitution, made the following report, which was ordered to be laid on the table, and printed.

**SECT. 1.** Sheriffs and Coroners, shall at the times and places of election of Representatives be elected by the citizens of each county ; one person shall be elected for each office. They shall hold their offices for a term of three years, and until a successor be duly qualified, but no person shall be twice elected Sheriff in any term of six years. Vacancies in either of the said offices shall be filled by an appointment to be made by the Governor, to continue until the next general election, and until a successor shall be elected and qualified as aforesaid. The certificate of the return judges of the election of Sheriff or Coroner, shall confer all the powers heretofore conferred on Sheriffs and Coroners, by the commissions issued by the Governor.

**SECT. 2.** In every county, having for the time being five thousand or more taxable inhabitants, one person shall be elected Clerk of each of the county courts of the proper county ; and in every county having for the time being, less than five thousand taxable inhabitants, one person shall be elected, who shall be the Clerk of all the county courts of the proper county ; Clerks of county courts shall hold their offices for a term of three years. But no person shall be more than twice elected in any term of nine years.

SECT. 3. In every county, having for the time being, five thousand or more taxable inhabitants, one person shall be elected Recorder of deeds and mortgages, and one person who shall be elected Register of wills and testaments; and in every county, having for the time being, less than five thousand taxable inhabitants, one person shall be elected who shall be Recorder of deeds and mortgages and Register of wills and testaments, to hold their offices for a term of three years. But no person shall be more than twice elected in any term of nine years.

SECT. 4. One county Treasurer, one county Surveyor, and one Notary Public, shall be elected in each county; the Treasurer for a term of two years, the Surveyor and Notary, for a term of three years, but no person shall hold the office of county Treasurer, more than four years in any term of eight years. The Legislature may provide by law for the election of so many additional Notaries Public in any city or county as shall be deemed necessary. All officers elected under this section, and under the second and third sections of this article, shall be elected at the times and places of election of representatives.

SECT. 5. Justices of the Peace or Aldermen, shall be elected in the several wards, boroughs and townships, for a term of five years.

SECT. 6. All officers whose election or appointment is not provided for in this Constitution, shall be elected or appointed as shall be directed by law. But no officer connected with, or appertaining to the system of Internal Improvements, shall be appointed by the Governor.

SECT. 7. A State Treasurer shall be elected annually by joint vote of both branches of the Legislature.

SECT. 8. All state officers created by law, except judicial officers, shall be filled by elections by joint vote of both branches of the Legislature.

SECT. 9. Clerks of the county courts, county Surveyors, Recorders of deeds, Registers of wills, and Sheriffs, shall keep their offices in the county town of the county in which they respectively shall be officers.

SECT. 10. All officers for a term of years, shall hold their offices, for the terms respectively specified, only on the condition that they so long behave themselves well.

SECT. 11. All officers shall give such security for the faithful discharge of their respective duties, as shall be directed by law.

SECT. 14. All commissions shall be in the name and by the authority of the Commonwealth of Pennsylvania, and shall be sealed with the State seal, and signed by the Governor.

SECT. 13. No member of Congress from this State, nor any person holding or exercising any office of trust or profit under the United States, shall at the same time hold or exercise any office in this State to which a salary is, or fees or perquisites are by law annexed, and the Legislature may by law declare what State offices are incompatible.

SECT. 14. The freemen of this Commonwealth shall be armed, organized and disciplined for its defence, when, and in such manner as the Legislature may hereafter by law direct. Those who conscientiously scruple to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

SECT. 15. No person who shall hereafter be engaged in a duel either as principal or second, shall hold any office of honor, trust or profit, under the Constitution or laws of this Commonwealth, and the Legislature shall



direct by law in what manner the proof of having been so engaged shall be established.

Mr. CHAMBERS, from the committee to whom was referred the 7th and 30th rules, reported the following explanatory rule, which was ordered to be laid on the table and printed :

**ADDITIONAL OR EXPLANATORY RULE.**

If the committees report that no amendment is necessary in an article, the report shall be considered, first in committee of the whole, and again on second reading. Amendments may be offered, either in committee of the whole or on second reading, whether the committees shall have reported amendments or not, and if no amendment shall be agreed to in committee of the whole or on second reading, the existing constitutional provision shall stand.

Mr. STERIGERE, of Montgomery, asked and obtained leave to offer the following resolutions, which were ordered to be laid on the table, and printed :

*Resolved*, That the Constitution be referred to the committee of the whole for the purpose of amendment, in which each article shall be considered in such order as the committee may direct.

*Resolved*, That when any article of the Constitution shall be taken up in committee of the whole, the amendments which may have been recommended thereto by any committee, and such other amendments as may be offered by any delegate shall be considered and decided therein, after which such article and the amendments thereto, which may be agreed upon in committee of the whole, shall be reported to the Convention to be considered on second reading, after all the articles of the Constitution shall have been considered in committee of the whole. The same order shall be taken on all new articles proposed to the Constitution.

*Resolved*, That when any article of the Constitution shall be taken up in Convention on second reading, the amendments thereto which may have been agreed upon in committee of the whole, and such other amendments as may be then offered by any delegate, shall be considered and decided on, and the amendments to such article which may be agreed upon on second reading (if any) shall be engrossed for a third reading at such time as the Convention may direct.

**FOURTH ARTICLE.**

The PRESIDENT having announced the unfinished business of Saturday, being the consideration of the fourth article of the Constitution, as the next order of the day,

Mr. EARLE moved to postpone the further consideration of the subject, for the purpose of taking up the first article.

The PRESIDENT was about to put the question in the usual form, "will the Convention proceed to the consideration of the unfinished business?" when

Mr. READ suggested that as the gentleman from Philadelphia had moved the postponement for a special purpose, his motion was in order. Had the motion been simply to postpone, it would have been only equivalent to that which had now been put from the Chair. But the motion was to postpone for the purpose of taking up the first article.

Mr. MEREDITH stated that he had, for some days, observed that when the Convention was about to proceed to the order of the day, being the consideration of the fourth article, motions had invariably been made to postpone the subject. Here was nothing to postpone. There was no

report before the Convention. But, if the motion were varied, so as to be a motion to postpone the orders of the day, that would be the proper form.

Mr. EARLE modified his motion accordingly.

Mr. BARNITZ, of York, had heard, not without surprise, the suggestion of the gentleman from Philadelphia (Mr. EARLE) that he (Mr. B.) had no disposition to address the committee on the subject, especially after that gentleman had offered his courteous resolution, which appeared to be intended to cut off further debate. He had, on reflection, thought it better to take a different course from that which he had determined on, when he made his motion on Saturday, that the committee rise. On that day, the hour was late, the Convention was exhausted, there were indications on the part of several members of an intention to speak, and, it was, perhaps, more from a desire to allow others an opportunity to be heard, than from any strong desire to intrude himself on the Convention, that he had submitted the motion. On reflection, he had come to the conclusion that, as the minds of members were pretty well made up on the question, if no other gentleman was disposed to take up the time of the body, he would be adopting the more judicious course, by interposing no obstacle to taking the question. He would now, therefore, prefer to go into committee of the whole for the purpose of taking the vote.

Mr. DENNY expressed an intention to move to strike out the portion of the motion, which substituted the first article, as the subject to be taken up, and to insert, for the purpose of taking up the very courteous preamble and resolution which had been offered by the gentleman from Philadelphia (M. EARLE). That gentleman himself had consumed more time in his speeches, than any half dozen other members of the Convention. He was, therefore, the last, who ought to have complained of the waste of time.

Mr. EARLE said he had not intended to provoke a speech from the gentleman, as he meant to withdraw his resolution.

Mr. STEVENS: If we were now to go into committee of the whole, the question may be settled in half an hour. If we are to wait until the speeches have been allowed to gather head for a week, the LORD knows when we are to get rid of the subject.

Mr. WOODWARD intimated his opinion that the question could not be disposed of in half an hour. There were several gentlemen who still wished to be heard. He was in favor of postponement for many reasons, which it was not necessary to go into. But he hoped that no gentleman would vote for going into committee under the delusive idea that the subject could be disposed of in half an hour.

Mr. STEVENS suggested that there was another reason for going into committee. Another Convention was about to meet here, and many of the members of this Convention belong to it. There could be no better time for going on with this discussion than when half the members were absent, attending to their duties in another place.

Mr. DENNY said the committee on the first article had not yet fully reported. Therefore, he thought it would not be advisable to go into the consideration of the first article, until the committee should have reported on the whole. The committee are still engaged on the section concerning the classification of Senators.

Mr. BROWN proposed to substitute the article (No. 3) on elections and suffrage.

Mr. INGERSOLL rose to correct a misapprehension on the part of those gentlemen who supposed the debate on the section relative to impeachment to be exhausted. There may be other members who are disposed to give their views, although they have hitherto been content to sit still, and listen with deference to what had fallen from others in the course of the able arguments which had been delivered. It is true, they may be a very small minority. He would not say whether he belonged to those who desired to address the committee on this topic or not, but he would say, that the debate was not exhausted. He was still further influenced by what had fallen from the respectable and unassuming gentleman from York. On Saturday he had yielded to the wish of that gentleman, that the committee should rise, because he remembered that members speaking here were not to be regarded as holding a mere conversation among themselves. They were to be considered as addressing the Chair, and through the Chair as morally speaking to their constituents, and to this whole commonwealth; and, through the mirror of the press, to the whole of the United States. The gentleman from York seemed to have a wish to make some observations. It was but natural and becoming in that gentleman, who had shewn himself to be unambitious of any prominence in the Convention, not to push himself forward on this occasion; it was not becoming in him to evince any extraordinary anxiety, but if he, or any other gentleman, wished to speak, indulgence ought to be extended to them. The Convention had, a few days since, been told by the President, that if any one wished to speak, he ought to be listened to, and in this opinion he fully concurred. Not very long afterwards, the question was thrown into the Convention, by two of the most distinguished members of the body, one from the city of Philadelphia, (Mr. CHAUNCEY) and one from Indiana, (Mr. CLARKE) as to the powers of this Convention, on the subject of amendments. This was a most important question, and one which appeared to meet the whole theory, as well as the practical course of the Convention. It had been declared that the majority of the people seek no change, and that, with the other point, whether the Convention had assembled here with power to make no change, were very important questions. It would be recollected that when the gentleman from Allegheny (Mr. DENNY) was in the Chair on Saturday, when his colleague (Mr. CHAUNCEY) put the question, that gentleman, who had great experience in legislative bodies, decided that all these questions were in order. He (Mr. I.) thought they were in order. He would add, that while he did not think that this body came here as a destroying body, did any one suppose that there were not important abstract questions connected with the business before the Convention:—abstract views of the Constitution, and considerations of great moment in reference to the mode of amendment, which would not require to be discussed? And could all these considerations be gone into without some preliminary debate? Where then was the difference, whether the Convention proceeded first with the third or the fourth article? Would any time be saved by going from one article to another? What benefit was to be derived from disputing whether the discussion should proceed on the question of a majority or two-thirds, in the matter of impeachment, or whether the powers of the Legislature, the Judiciary, or the Executive, were taken up? Or to what end was the rebuke given by the gentleman from Philadelphia, to a great number of this body, himself (Mr. I.) among

the rest, by the singular protest which he had presented? The whole subject must be debated, and debated at large, and whether this debate took place on Monday, Tuesday or Wednesday, it made no difference to him, and would neither more nor less retard the proceedings of the Convention. As he had on one occasion given a pledge to the gentleman from Adams (Mr. STEVENS), he was now willing to give one to his colleague (Mr. EARLE), that he would give as little trouble to the Convention, in the way of speaking, as that gentleman, but he coveted an opportunity, at some early day, to give his views. He desired to take some early occasion to deliver his sentiments, not so much for the purpose of being heard here, as through this Convention to enable himself to be heard elsewhere. These remarks he had thought it incumbent on him to make, that gentlemen might not be led astray by the delusive expectation that this subject would not occupy the committee of the whole more than half an hour.

Mr. CLINE, of Bedford, considered it proper to go into committee of the whole for the purpose of continuing the discussion which had been commenced. He would not pretend to decide how long this might occupy them: but the subject was one of great importance, and must, some time or other, be debated. The Convention had now been sitting three weeks, and the sooner this question could be settled, the better. He wished, and hoped to have an opportunity to say a few words, on this new idea which had been sprung upon the Convention, on the subject of power.

Mr. EARLE said if they continued on the course they had commenced, as his colleague (Mr. INGERSOLL) well knew, the Convention might be sitting for twelve months, or as long as the newspapers were discussing the subject of the Convention before it was called together. Although they had been sitting here for three weeks, they had not only not taken a single vote on any amendment which the people had expected to be made in the Constitution, but they had not even discussed any one of the questions which had agitated public opinion. If the suggestion of the gentleman from Adams, concerning the Anti-Masonic Convention, were to have weight, the Convention might as well take up a single one of the propositions, about which the people were anxious, go through with it, and submit it to them at the next October election, and then take up another, go through with that and submit it next October twelve months, and then take up another, and submit the October following; and so on, throughout the whole. He, himself, was extremely fond of discussion, and would then be willing to go into the question of the power of the Convention, which would prove a very knotty and amusing one. But the people were becoming dissatisfied, and thought there was too much of a disposition to evade the great questions. The best way would be to take up a question which can be debated, and then take up the rule, which prescribes that any member addressing himself to the President shall confine his remarks to the subject. Any gentleman could then offer a resolution and speak upon it; or any gentleman might wait, until his colleague should call up his resolutions concerning the United States Bank, if he ever should call them up. Otherwise, he would keep his protest on the journal, or if there was evinced a proper disposition to go on with the debate, he would withdraw it. He intended no personal reflection on the gentleman from York, for there were other gentlemen who had moved that the committee rise. Every thing foreign to the subject under discussion ought to be excluded.

Mr. STEVENS said that the case would be made no better by substituting the first article for the third. He would be unwilling to have the question taken immediately, as many gentlemen could not be in attendance for a few days, in consequence of their connexion with another Convention. He had heard enough on the subject to enable him to make up his own mind. Should he be absent, he might lose some speeches, but he was not likely to lose any thing which would alter his conclusions. He had not intended to say that the delegates were exhausted, but only that the subject was exhausted. Much would yet be said, and, he had no doubt, would be prettily said. Much would probably be said which was instructive, but this he could have an opportunity of hearing on the discussion of some other article, by and by. He did not believe that one in a hundred of the people had any distinct grievance in view, when the vote was taken on calling the Convention, but the gentleman from Philadelphia had been teasing the people on the subject for the last twenty years, and out of kindness to him, they at length gave him the Convention. They were all very well satisfied with the present Constitution, unless it might be some few fellows in the penitentiary whom it would be very hard to satisfy. Some asserted that the people had one amendment in view, and some, another. No one had any succinct notions on the subject. The best way would be to go into committee and proceed.

Mr. INGERSOLL asked for the ayes and noes on the question. He desired to see how far the proceedings of this body were to be interfered with by any other Convention.

Mr. STEVENS replied, that he hoped the gentleman would move that this Convention adjourn, and give place to a more important one.

Mr. STERIGERE asked for a division of the question.

The PRESIDENT decided that such division would be out of order, because the effect would be to put the motion in that form in which it would merely be the reverse of the question, which is the proper one, to proceed to the consideration. The negative of the proper question would, in effect, be the affirmative of the motion to postpone.

Mr. BROWN, of Philadelphia, stated, that much had been said about the courtesy due to every gentleman, to allow him an opportunity to express his opinion. Most of those who had spoken, had said that they would not advocate the amendment which had been discussed, if certain other changes were made; and they, therefore, wished this question to be postponed, until the other points on which their opinions would turn, should have been considered. He presumed, therefore, that gentlemen would not press this discussion now. If gentlemen were disposed to act with courtesy, they would not press the question at this time, but suffer it to lie over until the main subject on which this was based, should have been brought forward. Then these gentlemen, who were now in doubt, will have prepared themselves, either to sustain or abandon the amendment of the committee; he hoped, therefore, that the question would not be pressed.

Mr. FORWARD wished, he said, to make one or two remarks on the powers of the Convention, though he did not consider them as involved in the question before us. It was, however, perfectly obvious that the question would come up on the resolution relative to the Bank of the United States, and on other propositions. It seemed to him, therefore, that



we had better postpone a discussion of the powers of the Convention, until the question arose which involved the matter. We came here, expecting that the question would arise, and it certainly would arise. Was it not better to confine our attention to the matter now on the tapis, than to go off on the question of power. The subject before us involved no chartered privileges nor vested rights, and he hoped the discussion would be postponed till the subject make it necessary.

Mr. WOODWARD wished it to be understood, he said, that if the motion was negatived, and we went into committee of the whole, there were several gentlemen who were ready to enter into a discussion of the powers of the Convention, and also of the question, whether the people of Pennsylvania had ever decided in favor of a change of the Constitution at all. Although, he would be pleased to follow the suggestions of the gentleman from Allegheny, yet he would not agree that this topic ought to be reserved for a future occasion. The reason was this. The President of the Convention had declared, that the people had never agreed to change their Constitution, and that declaration had gone forth, under the sanction of this high authority, that this Convention was held in opposition to the popular will, or, at least, not in conformity with it. If we were not convened in conformity with the popular will, he would refuse to sit here any longer. Another gentleman questioned, whether the Convention could proceed to the discussion of the questions before it, because its powers were limited. Though he agreed with the gentleman from Allegheny that there might be a much better opportunity for the discussion, yet, as such able gentlemen had taken the lead, he was disposed to follow. How much time would be consumed by the discussion, in the committee of the whole, remained to be seen. He was certainly willing to postpone the orders, but if that motion was lost, and we went into committee of the whole, these questions which had been brought up by the President, and by the venerable and respectable gentleman from Philadelphia, would form the topics of discussion.

Mr. DENNY said, he thought our friend from Philadelphia county, in attempting to restrict the debates, had been somewhat unfortunate. If he had suffered us to proceed, we should, by this time, have got within half an hour of the termination of the discussion; but now the prospect was, that it would be gone into, and continue for a long time. What guard would the gentleman impose against a long discussion, in the committee of the whole? The same range of discussion would be taken, whether the subject was the first, the fourth, or the fifth article. How did we get into debate on the 4th article? Why, one thing drew on another, till the topics became very numerous, and the Chair did not feel disposed, nor authorized to check the discussion. The same would take place, which ever might be the article under consideration in the committee of the whole. We have come here, (said Mr. D.) in a free and temperate manner, to discuss the subjects connected with our Constitution. Free discussion was one of the principles which, in this land of freedom, was most fondly cherished. The greatest indulgence was, he thought, to be allowed to all discussions on this floor, and no Chairman would ever interrupt it, unless in cases of gross violation of order, or palpable and wide irrelevancy. He could not see what we were to gain by postponing the discussion, or by taking up another article instead of this. We ought



to pursue the same course that is adopted in relation to business in private life, and despatch one thing at a time. If we did not, we should find our tables covered with work, begun, and unfinished. Let gentlemen have free liberty of debate, and we shall soon come to a satisfactory conclusion.

Mr. CHAUNCEY would not, he said, have troubled the Convention with a word of remark, but for the observations which had been made on what fell from him on Saturday. He had heard it frequently said, that we were bound by the law, under which we were assembled, to make amendments to the Constitution. To this he had replied, that the Legislature had gone further than had been required by the people. He had referred to the first act of the Legislature on the subject, which limited the powers of the Convention, and required of it no amendments, except those which they might see fit to propose. He submitted whether this was a sufficient foundation for the suggestion, that the power of the Convention had been brought into question. Was this a sufficient ground for the foundation of an argument on the subject of the powers of the Convention? This question, however, he would be perfectly willing to go into on this or any other occasion when it might be brought up. He stated what was the voice of the people, as heard through an act of the Legislature.

Mr. FORWARD said, there appeared to be a misunderstanding as to what had been said concerning the powers of the Convention. The President did not say that this body could not deliberate and decide upon every question proposed here, but that they had the right to deliberate, and finally to decide, according to their best judgments. Did any deny this, or ask for the Convention a greater power? When gentlemen insist that the people demanded this or that amendment, he would call for their authority for this statement.

Mr. BANKS would infer, he said, from the remarks made by the gentleman from Allegheny, that even he questions the powers of this Convention. When we came to the several articles of the Constitution, and the amendments proposed to them, we should be told that the people wanted no change. Now, sir, this is a matter upon which we might all honestly differ in opinion. We may think differently as to what amendments will be acceptable to the people, but it was the unquestionable right of every member to determine what amendments ought or ought not to be adopted. It was now made a question, whether we should take into the discussion the subject of the powers of the Convention, and some other topics. We had listened to discourses, not discussions, on these subjects, for several days, and he thought we might as well hear them through. Every gentleman wanted to get at his object in the shortest, easiest, and quietest way. If we must have this discussion, we might as well have it now as at any other time. If it suits gentlemen to remain here and hear it, very well; if not, let them go, if they choose, to the other Convention.

Mr. MERRILL would not, he said, have a word to say, but for the attempts of the gentleman from Philadelphia, to check the freedom of debate here, by threatening to put us in his books. He put before us a most insulting proposition, and then promises to withdraw it at some future time, if we will behave ourselves prettily, and make him a low bow; if not, he will, he says, leave it there. He protested against the authority assumed by the gentleman. Though he was opposed to all this collateral discussion, yet, when gentlemen happen to wander one or two

steps out of the way, and the Chairman says it is improper to restrain the debate, is it for the gentleman from Philadelphia to rebuke us, and to say that we are doing what we ought not to do, or leaving undone things we ought to do? When the gentleman would show his authority for this, he would bow with all humility to his tuition? But, until then, he must object to the gentleman's threat to mark us, as bad boys, if we do not obey him. There was a diversity of opinion as to the power of the Convention; but, our power, in his own opinion, was to deliberate upon the subject committed to us, and to decide upon it, according to our judgments. He concurred with the gentleman from Franklin, that the debate must take place, and that there was no reason why it should not take place now. He hoped we should go, at once, into the committee of the whole and continue the discussion. We should then get one step forward. But, if we deferred it now, and took it up again, hereafter, no man could tell where it would end.

Mr. WOODWARD remarked, that he did not say the President had said any thing, which went to question the right of members to discuss any proposition here. He could not have said so, because the President had invited a full and free discussion on that, and every other topic. What he said was, that the President had remarked, that the people of Pennsylvania had never authorized any change of the Constitution, and that this opinion had gone out. He was particularly anxious to avoid imputing any language to the President, which he had not uttered, for the reason, that he was not in a situation to reply to every remark made on this floor.

Mr. INGERSOLL asked, if it would be in order for him to move to amend the motion by leaving out the words, "for the purpose of, &c".

Mr. EARLE accepted the amendment as a modification.

The CHAIR said it would be in order, but the question remaining would not be debatable.

Mr. EARLE said, he would be reluctant to put any check on the freedom of debate, on any subject, but he felt bound to resist this irregular and extravagant range of discussion, till after the disposition of the business which claimed our attention. He was willing that the debates on abstract questions should go on, though he would not promise that he would remain here to hear them. He had a right to his own opinion as to the propriety of this debate, and he wished to take measures to put that opinion on the minutes, so that his constituents might know whose fault it would be, if we remain here till July.

Mr. DICKEY interposed, and asked if the gentleman had not before spoken on this question.

The CHAIR said, if the gentleman had spoken once on this question, he was not, under the rules, entitled to the floor.

Mr. EARLE stated that he had not spoken since the proposition was modified. The gentleman from Union (he continued) had said, he (Mr. E.) had threatened to *mark* members. No! He had not proposed to mark them, but to justify himself. He hoped he should hear no further objections to his course on this score, especially, as the members from Philadelphia county were *marked*, as soon as they came into the Convention, and made the subject of severe and unprovoked attack.

The question being taken, it was decided in the negative—yeas 28, nays 95, as follows:

**YEAS**—Messrs. Brown, of Northampton, Brown, of Philadelphia, Butler, Cummin, Doran, Earle, Fry, Gamble, Gilmore, Grenell, Kennedy, Magee, Mann, Martin, M'Cahen, M'Dowell, Miller, Porter, of Northampton, Purviance, Reigart, Read, Sellers, Scheetz, Shellito, Stickel, Swetland, Woodward—28.

**NAYS**—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barnitz, Bayne, Biddle, Bigelow, Bonham, Brown, of Lancaster, Carey, Chambers, Chandler, of Philadelphia, Chandler, of Chester, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crain, Crum, Cunningham, Curll, Darlington, Darrah, Denny, Dickey, Dickerson, Dillinger, Donagan, Dunlop, Fleming, Forward, Foulkrod, Fuller, Gearhart, Hamlin, Hayhurst, Hiester, Helffenstein, Henderson, of Allegheny, High, Hopkinson, Houpt, Hyde, Ingersoll, Jenks, Keim, Kerr, Konigmacher, Krebs, Long, Lyons, Maclay, M'Call, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Myers, Nevin, Pennypacker, Pollock, Porter, of Lancaster, Riter, Ritter, Rogers, Royer, Russell, Saeger, Scott, Seltzer, Serrill, Sill, Snively, Sterigere, Stevens, Taggart, Thomas, Todd, Weaver, White, Young, Sergeant, *President*—95.

#### FOURTH ARTICLE.

The Convention went into committee of the whole on the report of the committee on the fourth article, Mr. DENNY in the Chair.

The question being on the motion of Mr. DICKEY, to amend the report of the committee, by striking out "majority", and inserting the words, "with the concurrence of two thirds".

Mr. BARNITZ accepted, he said, the courteous offer of the gentleman from Luzerne in yielding him the floor, and would beg the attention of the committee, while he submitted some remarks upon an incidental question, connected with the subject before them, which he deemed of high importance. He would not trespass upon the time of members by engaging in the discussion of the main question on the subject of impeachment. That had been amply and ably argued and he could impart no additional interest to it, but, in his opinion, the consideration of the powers of the Convention, in regard to the Constitution and the obligations incurred by the members, was important and interesting, and he would submit his views as briefly as possible. He did not mean the wide range of powers which had been alluded to, and which might be extended to embrace every variety of human action and human interests, but rather such general powers and duties as may be said to enter into the daily action of the Convention on the subjects committed to it.

Then, sir, (said he) what is our duty? He had heard it asserted by gentlemen on this floor, if not in express terms, by arguments that could not be mistaken; urged with the greatest confidence; that the whole duty of the Convention was *change*, that we came here to change, to alter, to amend. That the people demanded it from us and that the changes must be sweeping, entire, and radical in their nature.

Mr. Chairman, (said Mr. B.) I agree to no such views; I have undertaken no such duty; I hold no such commission. As a member of this Convention I have come here, and to define the duty with accuracy, as I understand it, it is not *to change* or *to alter*, but to *inquire into the expediency* of alteration or amendment of the Constitution. I am under no command, I am subject to no instruction, I have given no pledge, I feel free to act according to my own discretion, my own deliberation, my own judgment.

Permit me, sir, (said Mr. B.) then to inquire by what authority are we here? From whence do we derive our powers? It had been said by gen-

lemen, we are here under the immediate authority of the people—with all his deference for the people, he was clearly of opinion we acted under the powers created and conferred by the Legislature in the several acts relative to the Convention. The first authorising the vote in regard to it by the citizens; and the second prescribing the meeting, the organization, and mode of giving effect to our action. He knew of no other authority than that which was thus conferred, and if gentlemen derived powers or instructions from other sources he certainly did not.—It is true he had heard of amendments suggested by those whose opinions he valued, as well as through the press; but nothing of a mandatory character was enjoined or extended to him, in any degree interfering with what might be the result of his own deliberations.

There is, it must be admitted, (said he) something ambiguous in the phraseology of the last act of the Legislature, but, on a proper examination, it will be found, that the expected or probable result of our action was referred to, and that provisions are made according to such expectation without in the slightest manner intimating a control in regard to our deliberations.

Mr. Chairman, (said Mr. B.) in the relations that subsist between constituent and representative, there are two kinds of authority conferred—one is ministerial, containing special instructions, which, if the duty be accepted, the representative is bound to obey—the other, as was appropriately said by the member from the city, on the right, rises to a higher dignity; it is deliberative, leaving to the agent discretion, deliberation and judgment. Such, in his opinion, were the powers delegated to members of this Convention. From an examination of the last act, it appears that after our decision on the subject, the people reserve to themselves the right to rejudge our judgment, and to confirm or reject our final determination; proving in the strongest manner, that our right is in the first instance, deliberative in its character, with the right of appeal reserved. Our first duty, therefore, is the consideration of the Constitution as it is, in its various articles; our second, the examination of amendments that may be offered, and the conclusion is derived from our comparison between them, on the question, which is best calculated to promote the interests of our citizens, and to secure and perpetuate their rights?

This was a plain and simple view by which he was brought to the conclusion, that our powers throughout were deliberative, depending upon our own opinions and our own convictions. To place the argument in its strongest point of view, he avered, that it would be a full and perfect compliance with duty, should the Convention so decide, to report the Constitution to the people, *without amendment*. Although for himself, he was not disposed so to decide; yet he contended, it would be a full discharge of all the duties enjoined, and obligations incurred, should the Convention so determine. But it may be asked, (said he) what becomes of the Act of the Legislature? The answer is plain—it demands no further action. The Convention in that case will have decided, and the law will be fulfilled. If future action in regard to the Constitution is demanded, it is in the hands of the people, and propositions for changing must be by proceedings commenced *de novo*.

But, Mr. Chairman, (said Mr. B.) we have already decided in regard to one article of the Constitution, by an almost unanimous vote, that it is

inexpedient to adopt amendments proposed. If this was a legitimate exercise of our power, we may do the same in regard to every other provision and article, and thus the proposition I have advanced is proved beyond a doubt.

I am a delegate (said Mr. B.) from the Senatorial district of Lancaster and York counties. In those two prominent counties, although in general political aspects, opposite to each other, yet the vote in each was strong and overwhelming in opposition to the Convention. Were I, therefore, to regard this decision, and I know of no other test of opinion that I can acknowledge with any degree of confidence, I might feel justified, like the delegate from Lebanon, in returning the Constitution to the people unamended. But I feel myself here in a more enlarged character as a representative of the Commonwealth, with all her important interests, confided to my keeping and consideration, as a member of that body.

I believe (said Mr. B.) that some changes in the Constitution are required by public opinion, and may be expedient and salutary;—not of that character which will effect its vital and important principles, but amendments, which the lapse of time and change of circumstances may have rendered necessary. To effect this object, he would go with the friends of moderate reform, as they were termed, to the extent, at least, which he had suggested.

Mr. WOODWARD, of Luzerne, said that if the question which was now before the committee had not been departed from widely by those who preceded him in this debate, he should not have troubled the committee with any remarks. Subjects of great importance have been incidentally drawn into this discussion, in reference to which, he felt it to be due to his constituents that he should express his views, and it was for this purpose he had risen, more than for the purpose of attempting to add anything to the light which others had shed on the subject directly before us. Gentlemen have undertaken to examine the sources and extent of the powers of this Convention, and have spoken of the popular will, in reference to the call of it, and as I cannot agree in the opinions advanced on these topics, I wish to explain the grounds of my dissent; but before I proceed to do this, it will, perhaps, be proper, that I should express the opinions I have on the subject immediately and directly before us.

The majority of the committee on the fourth article have made a report which proposes to strike out of the clause relative to impeachments, the words "*two thirds*", and insert a "*majority*", so as to make the section read as follows: "All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of a *majority* of the members present". *For the present*, (said Mr. W.) he had no hesitation in declaring himself opposed to the report of the committee, and in favor of retaining the article as it stands in the Constitution. I say *for the present*, because, circumstances may hereafter arise in the progress of our deliberations which may induce me to change the vote I am now ready to give. We may find it necessary to recur to this article hereafter, and to modify and alter it in various respects.

It has been proposed to introduce a new officer into the Executive Department, a Lieutenant Governor, to fill the office of Governor on the death, resignation, or removal of that officer, and also to preside over the Senate.



Following out the analogy to the Constitution of the United States, it will be necessary to provide, should a Lieutenant Governor be established, that the Chief Justice, or some other judicial officer, shall preside in the Senate when the Governor may be impeached before it. The reason which induced a similar provision in the Constitution of the United States, was, probably, that the Vice President, as presiding officer of the Senate, might feel too much interest in the conviction of the President, to whose dignities and duties he would immediately succeed, to make it proper for him to preside over a tribunal at whose bar the President should stand arraigned. The same reason will apply here, and require a similar modification of this article, if we create a Lieutenant Governor and invest him with the ordinary powers of that office. For this purpose it may hereafter become necessary to alter this article, which, at the present stage of our proceedings, I am willing to leave untouched.

Again, if we fail by other means to bring certain officers of the government more within the power of the people than they now are, I shall feel willing to modify this article so as to give it practical value, of which, at present, it has none.

This two thirds principle, as it has been called, obtains in England, has been incorporated into the Constitution of the United States, and, as far as I have examined, is found in the Constitutions of all the States of this confederacy. The wisdom of the most enlightened portions of the world, has fixed two thirds of the tribunal having the decision of impeachments, as the most appropriate portion to agree, in order to convict, and I am content that it should remain so in our Constitution. Still, sir, I confess I feel but little respect for this whole impeachment provision, and if we were now forming an entirely new Constitution, and for the first, settling the principles of Government in Pennsylvania, I would be against introducing any such provision into the Constitution at all. But if I should find that a court of impeachment must be provided for, I would limit its power to mere removal from office, and, perhaps, give to a *majority* the control of this power. The provision, as it stands in our Constitution, is a dead letter. The consequences of a successful impeachment are so severe, and destructive to the accused, that no degree of official delinquency, short of crimes and misdemeanors, which the law would punish, will induce a sympathetic Senate to convict. As a practical remedy for official misconduct, by the removal of the incumbent, it has no value or efficacy, and the history of impeachments in Pennsylvania abundantly proves this. It ought to be so regulated as, on the one hand to protect the faithful and honest officer, from popular resentment and violence, whilst on the other it protected the people from the continuance in office of an unjust, incompetent, or unfaithful public servant. Perhaps this double object would be attained, by requiring a majority of the Senate to concur in a conviction on impeachment, and by providing that removal from office should be the only judgment to follow such a conviction. Mere removal from office would not be so severe a punishment as to deter Senators from applying it, and it would accomplish the great object which the people have in view in every impeachment they institute. In so far, sir, as the impeaching power is designed to be used for the punishment of offences against law, I object to it entirely. The ordinary courts are the appropriate tribunals for the trial and punishment of crimes. The Senate is not, in any res-



pect, fitted for the administration of criminal justice. It is a political body—a representative moiety of the Legislature. Its peculiar duties are legislative, and not judicial. It is selected in reference to the former, and cannot be presumed to be well qualified for the latter. It may be proper to clothe the Senate with power to *remove* a man from office, who has violated the condition on which he took it, but I would deny to them the power to *punish* him, by removing him from office, and disqualifying him forever from holding any other “office of honor, trust, or profit, under this Commonwealth”.

When a man, in office, has so behaved as to merit so severe a sentence as this, he has been guilty of some crime, which is, or should be punishable by the law of the land; and having, by an impeachment, relieved the people of a bad servant, I would leave the official culprit to be dealt with, by our ordinary criminal courts and juries. The yeomanry of the land, who constitute those juries, are the men to measure and pronounce on his guilt, and to *them* I would leave it to say, how often, and when the “Penitentiary should reclaim its fugitives in office”. Such juries are a safer and better constituted tribunal for administering justice, than any Senate. They are the real peers of every man, however high in office; and whenever any such man has outraged the public peace, or public morals, before them should he, as well as the humblest offender, be brought for judgment. The Senate can pass but one judgment for all cases, however various the circumstances, or different the degrees of criminality. Their sentence, severe and disproportioned to the offence, as sometimes it may be, can still be followed by indictment, trial and judgment at law, against the victim of Senatorial impeachment; and it is in this accumulation of penalties, some of which are extravagantly severe, that the safety of the official offender consists. Because, an impeachment will punish him too much, he is not impeached or punished at all. The provision which might be productive of salutary results, remains in your Constitution inoperative—a dead letter. I repeat, sir, I would modify and adopt it to the wants of the people, if we were now about to introduce it, for the first time, into our Constitution, but it is there, and if it has done no good, it has done no evil. The people have not looked to this article as one object of reform—they do not seem to have expected any change here, and I am not aware that they desire any. Let it stand, therefore, as it is, unless that which we may do, or neglect to do, in other parts of the Constitution, shall require change here.

Mr. W. then proceeded to speak of the powers of the Convention which, he said, other gentlemen had introduced into this debate. He agreed with the gentleman from Philadelphia, (Mr. CHAUNCEY) that in discussing this topic, it was necessary to recur to the source from whence the powers of the Convention had been derived. What, sir, is the source of our powers? Are they derived from the Legislature, as has been said? Not at all. The Legislature could not impart to us the powers which we claim to have. Nor could the Legislature restrict or limit those powers. Mr. Chairman, we sit here in virtue of the authority of the sovereign people of this Commonwealth. The sovereign power has delegated to us our trusts. The source of our powers is in that inestimable principle of liberty recognized in the second section of our Bill of Rights. “All power is inherent in the people, and all free governments are founded on

their authority, and instituted for their peace, safety, and happiness. For the advancement of those ends, they have, at all times, an inalienable and indefeasible right to alter, reform, or abolish their Government in such manner as they may think proper". Here, sir, in this reserved, guarded, and precious principle, I find the source of our powers. The people have never parted with their inalienable right to alter, reform, or abolish their government. The Legislature cannot impair nor control this right, in virtue of which we are here assembled. Gentlemen seem to think that the Legislature have controled the call of this Convention. Every well informed man knows, that from 1825, large masses of the freemen of Pennsylvania annually petitioned the Legislature to provide for a call of a Convention. The people declared their grievances, and proclaimed their determination to exercise that inherent power, to which I have alluded, and with which they have never parted. In their primary meetings the people expressed their wishes with great emphasis. At length, sir, the Legislature yielded to the popular will, and made arrangements for embodying and expressing it through the ballot boxes. They passed a law to which the gentleman from Philadelphia, (Mr. CHAUNCEY) and the gentleman on my right from York, (Mr. BARNITZ) have referred us as the source of our powers. What is the true construction of that act? It is entitled an act "to provide for calling a Convention with limited powers"; but what limitation is imposed by the act? None. The *law* imposes no limit on the Convention, but the people, in agreeing to vote in pursuance of the suggestions of that act, did impose on their delegates afterwards to be chosen, one and only one limitation. This was, that the amendments should be submitted to them for their ratification or rejection. Their votes were cast "*for a Convention to submit its proceedings to a vote of the people*", and hence, the only limitation to our powers as a Convention to propose amendments. My idea of this act of assembly is, that it was only a mode adopted by the people for concentrating and embodying their will. This department of the Government was chosen as the organ of the popular will, and the act is the voice of that organ. It was a mode of speaking adopted by the people for the occasion. They might have employed any other department of the Government for the same purpose, or they might have elected delegates, and held a Convention, and reformed and altered the Constitution, without any legislation at all. Some plan would have had to be adopted in such a case for securing concert of action amongst the people, and this object was well attained by this act of the Legislature. This was its object, this its result. More, the Legislature could not do. and more than this they did not attempt to do. I repeat, therefore, that the powers of this Convention, whether more or less, are derived from the people in their sovereign capacity, and not from the Legislature. In the exercise of their inherent and inalienable right to alter their government, they have convened us, an extraordinary body, representing, with one limitation, their sovereignty, and not a constitutional and ordinary body, deriving our powers from any department of the Government now established and existing.

Mr. W. then asked, what are our powers thus derived? We have power to amend the Constitution as we please, so that we do not violate sound morals nor contravene the Constitution of the United States. But the gentlemen from the city and from York, (Mr. CHAUNCEY and Mr.

BARNITZ) both insist, that we may restore the Constitution to the people unamended—and the former gentleman spoke of the “loftiness” of his station in thus being permitted to return that Constitution, untouched, to the people. Sir, we are a *reform Convention*—assembled to *amend* the Constitution. This is our character. It has been impressed on us by the hand of the people, and we cannot, without infidelity to our trusts, change this main feature of the Convention. I deny, sir, that we can restore this Constitution to the people as it is. The people have decided the question of reform: they have decided by more than thirteen thousand of a majority of their votes, on a change of the Constitution. It is no longer an open question. It is not competent for us to violate the public will, so distinctly expressed, by refusing to amend the Constitution, in those respects in which they have so clearly indicated their wish for change. Nor can I agree with the learned gentleman from the city, (Mr. CHAUNCEY) that the Legislature of 1836 misconceived the popular will, when in the preamble to the act passed the 29th of March, 1836, they recite that “Whereas, in pursuance of an act passed on the 14th day of April, one thousand eight hundred and thirty-five, the freemen of this Commonwealth, have, by a decided majority, determined that a Convention shall be holden to propose and submit for their ratification or rejection, a new State Constitution—and whereas, it is incumbent on the representatives of the people, promptly and without delay, to provide the means of carrying the public will into immediate effect”. Now, sir, where is the mistake in this preamble? It speaks of “a new State Constitution”, and so it will be, when the slightest alteration shall have been made. Alter it, and it becomes a new instrument—a new deed. *Non est factum*, would be a bar to any responsibility that might be sought to be charged on the framers of the present Constitution. It ceases to be their deed, and will become “a new State Constitution”, when one single feature of its present provisions shall have been changed. Well, sir, had not a “decided majority” determined on a Convention, as that act recites?

Another learned gentleman from the city, my venerable friend on the left, (Mr. HOPKINSON) some days since, declared that he never had seen the evidence, that the people of Pennsylvania desired a Convention to amend their Constitution, and this has been repeated more than once by the honorable President of this Convention, in debate. Yes, sir, the President of a Convention assembled to amend the Constitution, has declared and sent that declaration into the world, under the sanction of his high character, as well as of the exalted station he holds here, that this body is not convened in pursuance of the public will—that the people have never decided to change their fundamental law. If this be so, it ought to be known, and when this is shown to me, I will quit my seat and return home. But, sir, what is the argument by which this extraordinary assertion is sustained. It consists in a single fact. Forty thousand of the voters of Pennsylvania did not vote for or against a Convention. It is to this that gentlemen constantly appeal, to sustain the assertion that the people of Pennsylvania have never decided to amend their Constitution. Let us examine it. Of those who did vote under the act of Assembly of 1835, to which I have alluded, it is not denied that a majority of more than thirteen thousand were in favor of a Convention. The gentlemen from the city, (Mr. HOPKINSON and Mr. SERGEANT) did not in terms claim that the

army of forty thousand men who did not vote, would all have voted against a Convention—nor did they positively declare that so many of this number would have so voted, as to overbalance the admitted majority in favor of calling a Convention. But though these gentlemen have too much good sense expressly to assert, that all or the greater part of the forty thousand who did not vote, were opposed to a Convention; yet the time, the manner and the emphasis of their statement of the fact, do leave, and I presume, are intended to leave the impression on our minds, that such would have been their vote. The fact is of no value to the gentlemen, unless they deduce this inference from it.

Where were these forty thousand voters? Were they in districts known to be opposed to constitutional reform? When they came to elect delegates, whom did they send here? Men so astringent in their conservative views as to admit no change; or gentlemen, liberal, intelligent, and in favor of rational and moderate reform? We will see. In the city and county of Philadelphia, there were four thousand four hundred and thirty-eight more votes polled for Governor, at the election in the fall of 1835, than were polled for and against a Convention. About thirteen hundred of these were in the city, the residue were in the county; and is not the county of Philadelphia, most decidedly favorable to reform? Why, sir, it has been said, on this floor, that no man, who was not in favor of reform, could be run with the least prospect of success, as a delegate in the county of Philadelphia, and that the candidates nominated in opposition to the present delegates, were constrained, by the force of public opinion, to declare themselves favorable to reform. And do not the highly respectable representatives of that community, in this body, understand the views of their constituents? And are not these representatives sufficiently radical in their own views? How, then, in the county of Philadelphia, would the large body of voters have cast their votes? For or against a Convention? The question cannot be answered with perfect certainty, but from the circumstances which I have mentioned, I submit to any candid mind, if there is not more propriety in my inference, that most of these votes, (and they are part of the forty thousand,) had they been polled, would have been for a Convention, than there is in the inference of other gentlemen, that these votes would have been cast against a Convention? In Lancaster county, 3820 citizens, who voted for Governor at that election, did not vote in regard to a Convention; but the intelligent and respectable delegates, whom the people of that county have sent here, are understood to be in favor of various propositions of reform, and one of them (Mr. HILSTER) has submitted a series of resolutions, which go nearly as far as most of us are in favor of reforming. Do these gentlemen mistake public sentiment in Lancaster county? I presume not. That sentiment must then be favorable to constitutional reform; and if the three thousand eight hundred and twenty votes had been cast, have I not a right to infer, that a majority of them would have been for a Convention? The same observations may be made of Berks county, where there were 1001 votes more for Governor, than for or against a Convention. Of Westmoreland county, where there were one thousand and sixty-nine votes not polled, for or against a Convention. Of Allegheny county, where there were one thousand eight hundred and twenty-two votes not polled. Of Montgomery county, where there were 1660

votes not polled. Of Washington county, where 1953 votes were not polled. Of York county, where 1832 votes were not polled. Of Susquehanna county, where there were 1229 votes not polled. And of old Northampton, where 2305 votes were not polled, on the subject of a Convention. Here then, in ten counties, which are all in favor of amending the present Constitution, 21,129 votes were not polled for or against a Convention.

More than one half of the much talked of 40,000 votes are found in these counties, which are represented on this floor by gentlemen, who are willing and ready to make some amendments. The rest of the 40,000 votes were divided among the other counties in smaller numbers; but, from the sentiments of the districts to which they belong, I have a right to presume, that a majority of them, at least, were in accordance with the popular will around them.

Now, I suppose the reason of so great a deficit in the Convention vote was, that from the strong indications which appeared, in every part of the State, favorable to a Convention, very many of our fellow citizens felt that the question was sufficiently settled without their votes.

In all elections, where the result is clearly foreseen and confidently anticipated, the popular acquiescence, to a considerable extent, is manifested *sub silentio*. In such cases, very many votes are withheld, which would have been cast, had the issue been suspended in doubt. And I cannot help thinking, that a large portion of these 40,000 men, good and true, had they anticipated the unwarrantable inferences, which the gentleman from the city (Mr. SERGEANT) has drawn from the fact that they did not vote, would have been careful to have deprived him of all grounds for his remark, by polling their votes for a Convention. In the county of Susquehanna, which I have mentioned, and that part of old Northampton, which is now Monroe, I have some knowledge of public sentiment. I represent in part the latter county. It is in my district, and I know, that in that section of the State, a very large majority of the people are favorable to reform. It will not do to presume, from their neglect to vote for a Convention, that they did not anticipate or wish for a Convention. Much less should gentlemen presume, that these people will not vote to sustain reasonable and judicious amendments, if we offer them such. And what is true of the people in that part of the State, is perhaps true of them in every part. I cannot doubt, if we offer to the acceptance of the people at large, the improvements in our Constitution, which we have now the power of effecting, that they will, by a decided and overwhelming majority, sustain and sanction them. These, sir, are the views and the facts which have led me to question the accuracy of the statement so often made here, that the people never have decided on a change of Constitution. It is with great deference and respect, that I, at any time, venture to differ from the gentlemen who have made this assertion, but on a matter so important to us as the right apprehension of the popular will, I must be permitted to come to my own conclusions, from the facts before me.

And now, if I am right in supposing, that a majority of thirteen thousand of the freemen of Pennsylvania, have distinctly declared for an amended Constitution, and that of the forty thousand citizens who did not vote, a majority, perhaps, at least, thirty thousand of them are in favor of the same thing—how is it, that gentlemen venture to assert on this floor,



as the respectable gentleman from the city (Mr. CHAUNCEY) has asserted, that we may give back to the people their Constitution as it is? Can he stop his ears against the popular voice? Can he raise his arm in defiance of the majesty of the people? Is he clothed with powers so “*lofty*”, as to refuse to execute the verdict of the freemen of this Commonwealth? No, sir, we must amend the Constitution. The people have decreed it. They have sent us here to do it, and let us address ourselves faithfully and honestly to the work before us. They have not sent us here to deliberate whether the Constitution required amendment. Forty-seven years experience has taught them its defects, and they have resolved to remove them. I do not advocate an overthrow of our institutions. I would not remove one pebble from the foundation of our liberties—I would add new securities, and throw around it new guards. I would not impair the solidity of the fabric, under which we have so long reposed—but I would remove some of its deformities. I am for rational, judicious, needed reform. Such reform as shall enlarge the rights of the many, and multiply the securities of their liberties. Such reform as the people have demanded, and as they have a right to expect. If such reform, sir, should reach the bench, as another eloquent gentleman, also from the city, (Mr. BIDDLE) feared the other day, it must take its course. I will not, as that gentleman did, draw the judiciary into this discussion. The proper time for that subject is coming, and when it arrives, that gentleman will have to lay down eulogy and take up argument, if he would prove, that to make a judge independent, you must keep him in office for life, and add to his other great powers, the power of construing his own authority, and of extending it by construction *ad libitum*.

Mr. Chairman, I thank the committee for the indulgence of their attention. I have not frequently trespassed on the time of the Convention, and shall not venture, hereafter, to speak on any subject, unless duty to my constituents, or myself, imperiously demands it.

Mr. REIGART said, Mr. Chairman, if the gentleman from Luzerne, who had just taken his seat, had gone a few steps further, then he would have anticipated him in the remarks he had to offer; as it is, however, he said, he should be obliged to take a brief review of the political history of the present Constitution, the various attempts which had been made to revise it, and the failure of them, and then he would attempt to show what his conceptions were of the powers of his Convention. In attempting to do so, he was aware, that the question before the committee was not what were our powers; the legitimate question is, will the committee agree to the amendment to strike from the second section of the fourth article of the Constitution, the words “two thirds”, and insert in lieu thereof, “a majority”. But inasmuch as the committee seem, so far as there has been any expression of opinion, agreed to reject the amendment, and inasmuch as the delegates from the city (Mr. CHAUNCEY and Mr. PRESIDENT,) have thought proper to call in question the powers of the Convention, it seems to be due to the sources from whence the discussion had emanated, to endeavor at least, to come to some satisfactory conclusion on this subject. Sir, (said Mr. R.) the opposition to this Constitution seems to have been coeval with its existence. Immediately, or soon after its adoption, parties were divided into Constitutionalists and Anti-Constitutionalists: this cognomen, it is true, may have applied principally



to the Federal Constitution, but it is no less true, if we believe the history of the times, that there always was a large portion of the people of this Commonwealth opposed to the present Constitution, not as a whole, but to some of its details. This opposition manifested itself directly and tangibly in the year 1805. In the election of that year, the contest for the Gubernatorial chair was between Mr. M'KEAN and Mr. SNYDER, the former being the candidate of the Federalists and Constitutionalists, and the latter, the candidate for the Democrats and Anti-Constitutionalists. In this contest Governor M'KEAN was re-elected by a majority of about 5,000 votes. So, that there seems more than thirty years ago, to have been very considerable hostility to the present Constitution. It may, however, be said, and it is true, there was no direct and immediate vote on the Constitution itself, but it is no less true, that it was considered a test vote at the time, the claims of the respective candidates to the suffrages of the people, turning on the point of their adherence or hostility to the present Constitution. This being a matter of history, is given as such, to which all who wish to have the information in detail are referred. We next, sir, find that in 1808, when Mr. SNYDER, as a candidate of the democratic party, succeeded in being elected to the Gubernatorial chair, the clamor against the Constitution, in a very great degree, had subsided, as the Anti-Constitutional party had succeeded in procuring for themselves the distribution of the offices, honors, and emoluments of the Government. It was not (said Mr. R.) his intention to attach blame to the democratic party of that day. He believed that any other party, circumstanced as they were, would have just done the same thing; all that he intended to prove was, that there had always existed a party in the Commonwealth, who, for some motive or other, opposed the present Constitution. We next find, sir, that in 1820, when the democratic party lost the State government by the election of Mr. HIESTER to the Gubernatorial chair, they again became Anti-Constitutionalists. But it is due to them to say, that many of them remained so until 1825, when by legislative enactment in that year, the sense of the people was directed to be taken by ballot for and against a Convention, at which election about 100,000 votes were polled, and which resulted in a majority of about 15,000 votes against the call of the Convention. From this period the matter slept for a short time, but the slumber was not profound or deep, it was restless and uneasy; the people again and again, (not to be sure in mass) kept up a kind of systematic petitioning to the Legislature for the call of a Convention. Nor does it seem to have been confined to any particular party; people of all ranks, classes, and political professions, joined in this measure, the result of which steady perseverance was, in April, 1835, responded to by the Legislature, by the passage of the act in that year, authorizing the call of a Convention with limited powers; first, however, submitting the question to the people, for their ratification or rejection, at the exciting general Gubernatorial election of 1835, when it was ascertained, that about 160,000 votes were cast relative to the call of the Convention, and that the question was carried in favor of the call by upwards of 13,000 votes. For Governor, about 200,000 votes were cast. So, that about 40,000 of the actual voters refused to vote, or were indifferent on the subject. Of this latter class, the person who now addresses you was one; indeed, many good, wise, and peace-loving citizens, who did not

vote, did so on the avowed ground, (not that there are not some glaring defects in the present instrument, not that it did not require amendment, not that it was not susceptible of much improvement,) of the very great danger there might be in submitting the whole instrument to a revision of any Convention. There are, sir, many parts of it to which the people, (said Mr. R.) in his district cling with pure and holy affection; they considered it, and very justly, as the great charter of their rights, and that those rights are recognized and established by it; in a word that it secures to them, beyond all control, their absolute rights; that their personal liberty, personal security, and private property, are, by it, placed beyond jeopardy. It is not wonderful then, (said Mr. R.) that a peace-loving, honest, and industrious community, such as Lancaster county is known to have, should have given such a decided majority against the call of a Convention. But, sir, if that highly intelligent and highly industrious community, could have had certain amendments only submitted to them for ratification or rejection, the result of the vote given in that county, there is great reason to believe, would have been far otherwise; could they have been assured that the aristocratic features of this Constitution only would be revised, they would never have hesitated as to their course. But when the single isolated question put, was, shall the Constitution stand or shall it fall? they gave a most decided vote against the call of a Convention. Coming, then, (said Mr. R.) from the quarter of the State which he did, he came here not as a reformer, but as the advocate of a salutary, judicious reform of such parts of the Constitution as required amendment; not prepared to interfere with vested or individual rights, not to uproot the Constitution, not to destroy the venerated landmarks of law and order, and throw all into confusion and chaos, far different, indeed, were the purposes for which his constituents had sent him here. He had been sent here by kind, indulgent constituents, without having been required, or giving any pledge whatever. The only pledge which his constituents had, was his previous life and character, having been known to them since his infancy, and it was the only one he could or would give. But, sir, we are now told that the Convention possesses but limited powers, and in aid of this construction the act of 14th April, 1835, providing for the call of the Convention with limited powers, is cited. This act, however, notwithstanding its title, is in effect nothing more than an act providing for the time and manner of ascertaining the popular sentiment, as to the propriety of calling the Convention, and is not in any way calculated to shed a ray of light on the powers possessed by the Convention; and (said Mr. R.) we are here assembled, in accordance with the wishes of a decided majority of the people of the State, or what is the same thing, according to the wishes of a decided majority of the people who voted on the subject, and are, therefore, according to the Constitution and laws of this Commonwealth, the delegates of the good people of the State to revise, alter, and amend their fundamental laws. He, for one, could not agree with the highly respectable, learned, and intelligent delegates from the city, who attempted to prove that the 40,000 citizens who refused to vote, were to be counted on the side of the minority. That he could subscribe to no such inference, nor could he subscribe to the inference of the highly respectable delegate from Luzerne, (Mr. Woodward) that they were to be counted with the majority of those who voted on the

question. The only fair inference, as it seemed to him, that could be deduced, was, that they feared their votes might produce mischievous effects, or that they were indifferent as to the result, or perhaps, what might have been the case with many, that (as the question was not discussed in the public journals,) they had forgotten to vote, or had forgotten, if ever they knew, that such a question was submitted to them for their action.

Sir, said Mr. R., it has been said that the act of 29th March, 1836, calling on the people to elect delegates to the Convention, was not authorised by the act of 14th April, 1835. Perhaps it was not: the preamble to the act as well as the act itself, may, and probably does, contain some assumptions not warranted by the previous act, and not in any manner sanctioned by the people, except indeed by them through their immediate representatives who passed the acts. But, sir, we look to both, or either of the acts in question for a definition of our powers, and it is highly questionable, and worthy of all consideration, whether the Legislature had any power whatever, to limit the powers of this Convention, were there a limit prescribed in the latter act. It is a matter of great doubt indeed, whether a combination of the Legislative and Executive branches of the Government could limit our powers; where then do we look for a limitation of our powers? On this subject. Mr. R. said he was inclined to adopt the argument used by his friend, the delegate from Luzerne, (Mr. WOODWARD) who referred to the second section of the ninth article of the Constitution, that the people had referred the entire Constitution to us, for our consideration, to alter and amend, as we thought proper; subject, however, and reserving to themselves the right to ratify, or reject the alterations and amendments which we might propose to them: as to the right of the Convention to alter and amend without limit he did not doubt, and as to the right of the Convention to adjourn without making or proposing any amendments, he also had no doubt; the fact and the truth seemed to him to be, that the powers of this Convention, so far as relates to the proposed amendments to the Constitution, were unlimited, except indeed, so far as those amendments might interfere with previous vested rights, or conflict with a higher authority in another quarter, (the Constitution of the United States).

Mr. R. also said, as to the propriety of making certain amendments, neither himself, and he spoke, he thought, the sentiments of some of his colleagues, when he said, nor were they excessively conservative; for himself he had heard many and frequent complaints against the immense patronage of the Governor; from his earliest youth he had been taught to believe it an evil of no ordinary kind. The great and inordinate love of office, which pervades every rank and class of the community, renders the situation of the Executive any thing but enviable, and, it seemed to him, any Executive would gladly dispense with the power. He said that he came prepared fully so to vote for the abridgement of Executive patronage, so far as respected the appointment of county officers, Prothonotaries, Registers, Records, Clerks of courts, &c., and to give it to the people, to whom it legitimately belongs. This opinion he had long entertained; it had grown with his growth, and strengthened with his strength; this, he said, was one of the subjects of amendment on which he had made up his mind; 'tis true he was still open to conviction, but it would

require very cogent argument to convince him of his error in this particular; he felt convinced, notwithstanding the majority given in Lancaster county against the call for a Convention, that his constituents would sustain him in this vote; his constituents, he said, feared evil amendments, but were prepared to go for good ones, and he hoped they would be agreeably disappointed. On the subject of the judiciary, however, he said his constituents were quite conservative, and he felt so himself; he was willing to sustain the judiciary as at present organised, and would go that way; but as to Executive patronage, he thought he had made up his mind, and he did not agree with his colleague, (Mr. BARNITZ) when he said that he thought that his constituents required no amendment. He (Mr. R.) thought that the people expected some alteration, and if his colleague restricted to York, his own immediate district, he might be correct, but he thought the people of Lancaster, part of the Senatorial district, did expect some amendment; but he cautioned delegates against submitting too many amendments to the people, as such a course might result in the rejection of all.

Mr. HOPKINSON said it had not been his intention to ask any of the time of the committee in discussing the subject now before it, had not the respectable gentleman from Luzerne (Mr. WOODWARD) done him the honor to have remarked on some of the observations and arguments he had made, offered a few days ago. He would have waited patiently to have given his vote, had not the gentleman seemed to misapprehend what had fallen from him on that occasion. He had assumed that he (Mr. H.) had advanced the argument that the 40,000 votes that were given for the different candidates for the office of Governor, and not given on the question of calling a Convention, ought to be claimed as votes against the Convention. The gentleman had misapprehended him. Such was not the fact. He (Mr. HOPKINSON) did say, and he understood the President of the Convention to say, that the 40,000 votes not given on the question of a Convention, might fairly be presumed to have been indifferent on the subject. Now, was that not a fair inference? If an important matter is in agitation, (continued Mr. H.) and I stand perfectly aloof, and take no part in the decision of it, is not that an inference to be drawn from the circumstance that I am entirely indifferent as to the result? If not, my understanding cannot comprehend what is a legitimate inference. If the man who takes no part in an important controversy, neither on the one side nor on the other, but exhibits an utter indifference as to the manner in which it may terminate, must not be presumed to be careless of the result, then am I utterly ignorant of all the rules of fair inference. Mr. H. said that the gentleman from Luzerne had gone into an ingenious argument, for the purpose of showing that these votes ought to be counted in favor of a Convention. That argument had not convinced him, for no argument could convince him in the face of the ballot box. And, gentlemen must excuse him, if he refused to take their arguments on this floor, against the acts of their constituents.

Mr. H. agreed that the various calculations made by gentlemen, as to the majorities, were founded on mere assumptions, and could be considered of no weight when opposed to the decision of the ballot box. The opinions of individuals were nothing to him; he looked to the opinion of the people as expressed through the ballot boxes. They spoke for them-

selves, and so are we authorized to speak for them. He held, then, that as regarded the 40,000 votes withheld (and this also was the opinion of the President, and others who followed him), that he was perfectly justified in asserting that while there were but 13,000 majority in favor of a Convention, there were 40,000 who stood with their arms folded; and the argument was good that if these 40,000 votes had been polled, the majority would have been as great against the Convention as it now stood in favor of it.

It was a little extraordinary that in a body like this, where there were so many gentlemen experienced in legislation, that they should find themselves placed in the situation in which they now stood. The question about which this discussion began was simply the report of the committee on the fourth article, and the amendment proposed to it was so unconnected with any thing in the Constitution, that it seemed almost impossible to touch it without entirely forsaking the path through which the debate ought to travel. Now, gentlemen rise and say to the Chair—I do not rise to speak to the question—I do not rise to say whether the amendment should be adopted, or not. I rise to speak as to the source from whence this Convention has derived its powers, and the extent of those powers. Now, as this had been the course of the arguments of gentlemen, he might be permitted to say a few words on the subject of this power. We know that in our Government, and in all Governments, the people are the original source of all power, and from their decision there can be no appeal. But he did not believe that the will of the people was so easily ascertained. Every body thinks his own will to be that of the people. It is like the echo among the rocks—it is here, there, and every where, and no one can find it, and each man makes it the response of his own voice. But when the people speak—where the majesty of the people arise, where was the man, or body of men, who could oppose himself to it? We derive our power from the people of the Commonwealth. That power had been referred to by the gentleman from Indiana, (Mr. CLARKE) and what is it? He would read it from the Bill of Rights:

“All power is inherent in the people, and all free Governments are founded on their authority, and instituted for their peace, safety, and happiness: for the advancement of those ends, they have, at all times, an unalienable and indefeasible right to alter, reform, or abolish their government in such manner as they may think proper”.

Now, we had not the question before us, whether the people had, in their primitive assemblies, called this Convention. That question had been determined, and the people had left it to their ordinary representatives in the Legislature to carry their views into effect, as to the manner in which the Convention should be called. Now, we had been told, and this was the part of the argument which most startled him, that the Convention had no power to return the Constitution to the people unamended. Had the people, he asked, ever expressed their will on that point, in any manner, or in any way—directly or indirectly, by inference, or otherwise? He would ask, what was the only question ever submitted to them? Was it amendment or no amendment? Never. It was “For a Convention, to submit its proceedings to a vote of the people”; or “Against a Convention”—and not “Amendment”, or “No Amendment”, or whether the Constitution should be changed, or altered, or not.



What, then, was the object of calling the Convention? It was to examine the Constitution, and to deliberate and determine whether any changes were required, or whether any could be made which would be beneficial to the people. The people of Pennsylvania had never declared it to be their will that the Constitution should be changed. That would have placed many gentlemen in an awkward situation. He would take the case of a member, of a gentleman being selected by the people for his knowledge and patriotism, to examine the Constitution for the purpose of ascertaining whether any amendments were necessary to be made to it, and he should come to the conclusion, after such examination, that no amendment could be made without doing wrong to the people—was it possible that he could feel himself bound to do that wrong? Would he be called upon to do it in pretended obedience to the people? He thought that a man would hardly sit here under that impression. He thought that no man would consent thus to violate his conscience, or his duty to his country. The gentleman had asserted that there was no limitation on the power of the Convention, except that all the amendments proposed to be made in the Constitution, must be submitted to the people for their ratification; yet, the next moment he imposed a restriction, strict, rigid, and uncompromising, by saying—we had no power to send the Constitution back to the people unaltered. Suppose that every thing had been amply discussed—after every man had compared his sentiments with those of his neighbour, and we should come at last to the conclusion, that the Constitution is “matchless”, or at least that it is not in our power to amend it, but still considered ourselves bound to make a change—what course would be left for us to pursue? Here are nine articles—all good, but one must be sacrificed. Would you adopt the practice in the Roman army, when it was necessary to sacrifice any portion of it, to expediency, or public policy, and cast lots for the victim? If it was made imperative upon us to sacrifice one of the articles, it would be a task of great perplexity for us to select that one. But, it was asked, are we to do nothing? To this he would reply—better to do nothing than to do mischief. Much better would it be that we should spend our time and the public money in doing nothing, than in doing mischief. He did not know what might be done here. He had come here unfettered and unpledged by promises, to any human being. And, he would here say, that when gentlemen come here and say where reforms can be advantageously made, and he could be satisfied that they were good and beneficial, he would vote for them. But, he would ask, when gentlemen talk about the great anxiety on the part of the people to have certain changes introduced into the Constitution, for the evidence of that anxiety. He had heard of no complaints, and if the people were so anxious, as had been represented, if there existed such oppression under the present system, and such suffering every where, he could not account for it that the tone of public grievance had never reached his ear.

[This is merely an outline of the argument of Mr. HOPKINSON, his observations being delivered in a tone which was sometimes inaudible, and in general, indistinctly conveyed to the ear.]

Mr. INGERSOLL then commenced a series of remarks on the powers of the Convention, but before he had made much progress,



At the suggestion of Mr. BANKS, of Mifflin, he yielded to a motion that the committee rise.

On motion of Mr. BANKS, the committee rose, reported progress, and obtained leave to sit again.

Mr. EARLE asked leave to withdraw the resolution he had offered in the early part of the morning, but before any question was taken,

The Convention adjourned.

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TUESDAY, MAY 23, 1837.

Mr. EARLE, of Philadelphia, moved to correct the journal, stating that the resolution which stood recorded, as offered by him yesterday, he had withdrawn.

Mr. Cox, of Somerset, stated that there was merely a motion for leave to withdraw, pending, when the Convention adjourned.

Mr. EARLE said he had withdrawn, and that it was in his power, as no motion had been made on it, to withdraw the resolution.

The PRESIDENT: The gentleman from Philadelphia desires that the journal should be corrected. The error attributed is, that a certain resolution offered yesterday by the gentleman is placed on the journal, which resolution was withdrawn by him, and therefore should not be on the journal. The facts, as well as the Chair can recollect, are these: The resolution was offered and read, and no motion for its second reading was made by the gentleman. The gentleman from Allegheny (Mr. DENNY) moved the Convention to proceed to the second reading, but the Chair considered that motion to be out of order. No other motion was made on the subject. A motion was made in Convention to adjourn. The gentleman from Philadelphia asked leave to withdraw his resolution. The motion to adjourn was then withdrawn, but was immediately renewed, and before there was any decision on the question of granting leave, the Convention adjourned. The Chair is of opinion, that the motion for leave to withdraw was not in order at the time when it was made, without a vote of two-thirds, as the subject was not then before the Convention. It would have been necessary first to proceed to the consideration of the resolution; and then the motion for leave to withdraw would have been in order. The motion, therefore, was not in order, and, if it was, it was superseded by the motion to adjourn. These are the facts, and the Chair is of opinion that the journal is right.

Mr. EARLE withdrew his motion. If the resolution should give offence to any gentleman's feelings, he should be sorry that it was on the journal.

Mr. PORTER arose and said, Mr. President, I beg leave to present to you, and through you, to the Convention, the memorial of the yearly meeting of the Society of Friends, in the Commonwealth, praying for relief from the burthens imposed upon them under the existing Constitution, by reason of their conscientious opinions.

The Society of Friends embraces a large number of the most useful, moral, intelligent, and industrious inhabitants of this Commonwealth. Men proverbial for their integrity, public spirit, charity, and hospitality; whose pure and disinterested benevolence and philanthropy have filled the

commercial capital of this State with institutions which adorn humanity, encourage learning and useful knowledge—foster and improve science—provide for want and distress—afford comfort, medicine, and attendance to the sick, the afflicted, and the destitute—teach the dumb and the blind, as it were, to speak and to see—afford the opportunity for reformation and restoration to virtue and respectability to the fallen—and who, in fact, have either founded, or greatly aided in sustaining all the noble charities which have placed Philadelphia so pre-eminently above all the cities of the world, and reflected on our Commonwealth no small portion of the character which she bears.

The illustrious and almost prophetic founder of Pennsylvania, himself a Friend, who had suffered persecution and imprisonment for conscience sake, laid the basis of all those liberal principles, which have stamped greatness upon almost every thing pertaining to this Commonwealth, and have made her second to none in the American Union. The effect of the principles, character, conduct and example of these people, has not been alone confined to your cities: they are felt throughout the State; and it may truly be said of them, that none are more enterprising merchants, more industrious and prosperous farmers or mechanics, or better or more peaceful citizens and neighbors than they.

The claims of such a body of citizens are entitled to be received with respect, and treated with due consideration. There are members of the society, holding seats in this body, to whom I had supposed the presentation of the memorial would have more appropriately belonged, but with a delicacy which I perfectly appreciate, and which is characteristic of them, they have declined doing so, as it is their own cause, their own petition, and I have been asked to perform the duty, which I do with great cheerfulness. Without committing myself as to the course which I may ultimately pursue, I may be permitted to say, that, not belonging to the society myself, nor holding their peculiar doctrines on the subject of bearing arms, I respect the conscientious feelings by which I know they are influenced, and it is a duty, as well as a privilege, thus, in some measure, to acknowledge, if not to repay the many acts of kindness conferred upon my parents and myself, by our nearest neighbors and most respected friends, who were of that society, and the individual obligations under which I personally labor, to more than one of that respectable society, when a youth, and away from home, labouring under sickness and afflictions, and when they extended to me all the care and kindness I could have asked, or expected under a parent's roof.

The memorial was then ordered to be referred to the committee on the ninth article of the Constitution, and printed.

Mr. M'CAHEN, of Philadelphia, submitted the following resolution, which was ordered to be laid on the table, and printed:

*Resolved*, That the committee upon the currency, corporations, &c., be instructed to report a new section to the Constitution, prohibiting the Legislature of this State from incorporating any banks, or other institutions, with authority to "emit bills of credit", or any thing for the payment of debts other than gold and silver. And that the said committee be further instructed to ascertain if it is in the power of this Convention to make such provision as shall forever annul and extinguish the charters of banks, heretofore granted by the Legislature of this state, that shall refuse gold and silver in payment of their debts,

Mr. HOPKINSON from the committee to whom was referred the fifth article of the Constitution, made the following report, which was ordered to be laid on the table, and printed :

“ The committee to whom was referred article fifth of the Constitution, report :

“ That they have considered the several sections, matter and provisions, contained in said article, and that they have deemed it expedient to submit to the Convention the following amendments, in relation to the same, and no other, viz :

“ That the same be amended, by striking out the fourth section ; and the said article be further amended, by striking out the tenth section, and inserting in place thereof, the following :

“ The Justices of the Peace shall be chosen by the qualified voters, in such convenient districts in each county, at such time and in such manner, as by law may be provided ; and that there shall be one justice of the peace in every such district, containing not less than fifty taxable inhabitants ; and that there may be chosen, as aforesaid, an additional justice in every such district, for every one hundred and fifty taxable inhabitants in said district, exceeding one hundred ; and said justices shall hold their offices for the term of five years from the time of their choice, as aforesaid, except those first chosen under this amendment, who shall be classed as by law may be provided, and in such manner, that one equal fifth part of the said justices, in the several counties, shall go out of office annually thereafter. The said justices shall be commissioned by the Governor, and may be removed by the Governor, on conviction of misbehaviour in office, or of any infamous crime, or on the address of the Senate ; and the said justices shall give security to the Commonwealth, for the faithful discharge of the duties of their office, in such form and manner as the Legislature may direct”.

Mr. HOPKINSON moved that the report be made the special order for Monday next.

Mr. STERIGERE, of Montgomery, expressed his hope that the motion would not prevail.

Mr. HOPKINSON stated in few words, the reasons which had induced him to make this motion : This subject ought to be speedily disposed of. No matter what was the subject of debate, the discussion was for ever running into the questions connected with the judiciary. The judiciary was eternally a stumbling block in the way of a decision. He had thought, therefore, that the best way would be to dispose of that subject as early as possible, if his suggestion should meet the approbation of the Convention. The ground would then be clear for all secondary matters. This was the reason for his motion.

Mr. WOODWARD, of Luzerne, expressed a wish that the gentleman from Philadelphia would withdraw his motion, until after the report of the minority of the committee should have been presented.

Mr. HOPKINSON assented, when

The PRESIDENT stated that the practice which had grown up in the Convention concerning minority reports was new, and did not prevail in legislative bodies. It was a very proper practice, however, in such an assembly as this, and the Chair had given every possible facility to the disposition of these reports. But the Chair was of opinion that the ques-

tion should first be put on the report of the majority, and whatever the decision upon that it would carry the minority report with it. He would, therefore, first put the question on the report of the majority of the committee.

Mr. STERIGERE suggested that probably the wish of every gentleman was in coincidence with that of the gentleman from Philadelphia, but some may wish for more time to examine the reports, and reflect on the subject. Of all the subjects which would come before the Convention, there was no one which was likely to provoke more discussion. Further time, therefore, ought to be allowed for preparation. If the report were to be made the order of the day for Monday, some other business might interfere, and then this subject would be in a worse situation than if no order were made, unless, indeed, it was made the special order.

Mr. CHAMBERS said he understood the effect of making it the special order for Monday would be that it could only be postponed by a vote of two thirds, and, as was remarked by the respectable Chairman of the committee, this report ought to receive as early a consideration as possible, as the subject was one of great importance. A greater change in this department of the Government was contemplated by the committee, and on the various resolutions submitted, than in any other. So great, indeed, was this change, that the committee had been engaged longer upon it than had been anticipated, and had deferred their report until all the other important committees had reported. But this article had, in the mean time, been the subject of debate again, and again, but no decision had been made; and some gentlemen had abstained from coming to a conclusion, because the subject was still pending in the committee. As this was the subject on which the greatest changes had been made, or were expected to be made; and, as the postponement of it until after the other reports should have been considered, would be to cause unnecessary delay, he hoped the motion of the Chairman of the committee would prevail, and that the report would be made the special order for Monday, and so he understood the motion to be.

The question was then taken and decided in the affirmative. Ayes 76.

Mr. WOODWARD then presented the following report of the minority of the same committee, which was also ordered to be laid on the table, and printed, and made the special order for Monday next:

The subscribers, a minority of the committee on the fifth article of the Constitution, respectfully report: That they concur in the report of the majority of said committee as to all the sections of the said article, except sections second and fourth. The subscribers recommend the amendment of the second and fourth sections of said article, so that the same may read as follows:

SECT. 2. The Governor shall nominate by message, in writing, and by and with the advice and consent of the Senate, shall appoint the judges of all the courts established by this Constitution, or which now are or hereafter may be established by law. The Judges of the Supreme Court shall hold their offices respectively, for the term of ten years, but may be re-appointed. The President Judges of the several courts of Common Pleas, and the Judges of the several District Courts, and of such other courts as now are or hereafter may be established by law, shall hold their offices for the term of seven years, but may be re-appointed. The Associate Judges of

the several counties shall hold their offices for the term of three years, but may be re-appointed. For any reasonable cause which shall not be sufficient ground of impeachment, the Governor may remove any of the said judges on the address of two thirds of each branch of the Legislature. The said judges shall at stated times receive for their services adequate salaries to be fixed by law, which shall not be diminished during their continuance in office, but they shall receive no fees, travelling expenses, per diem allowances or perquisites of office, nor hold any other office of profit under this Commonwealth. *Provided*, That after the ratification and adoption of this Constitution, the Governor shall, by, and with the consent of the Senate, re-appoint one of the then existing Judges of the Supreme Court for the term of two years, one of them for the term of four years, one of them for the term of six years, one of them for the term of eight years, and one of them for the term of ten years, and whenever any vacancy occurs on the bench of the Supreme Court by the death, resignation or removal of an judge thereof, the Governor shall, in the manner aforesaid, fill such vacancy, by the appointment of a judge for the unexpired term of the judge so deceased, resigning or removal.

SECT. 4. This Commonwealth shall be, by law, divided into convenient judicial districts. A President Judge shall be appointed for each district, and two Associate Judges for each county. The President and Associate Judges, any two of whom shall be a quorum, shall compose the respective courts of Common Pleas.

G. W. WOODWARD,  
JOHN Y. BARCLAY,  
O. J. HAMLIN,  
ROBERT FLEMING.

#### CURRENCY, &c.

Mr. RUSSELL, of Bedford, from the special committee on the currency, corporations, public highways and eminent domain, made the following report, which was ordered to be laid on the table, and printed :

That they have had these subjects under consideration, and that in the opinion of the committee, it is unnecessary and inexpedient to make any alteration, addition or amendment to the Constitution thereon, other than those embraced in the report heretofore submitted by the chairman, and ask to be discharged from the further consideration of the subjects and documents referred to them.

J. M. RUSSELL,  
C. CRUM,  
WALTER CRAIG,  
M. W. BALDWIN,  
WILLIAM L. HARRIS.

Mr. INGERSOLL presented the following report from the minority of the same committee, which was ordered to be laid on the table, and printed :

Mr. INGERSOLL, from the minority to whom were referred the subjects of the currency, corporations, the public highways, and eminent domain of the State, made the following report, viz :

The minority of the special committee, to whom was referred the kindred subjects of currency and corporations, respectfully report : That each of these subjects deserves a full and distinct exposition, But the infor-

mation of this Convention, the practical intelligence of the community, and the special warning of this deplorably instructive crisis, render much argument unnecessary. They submit amendments to the Constitution on each of these subjects, with the following explanations:

**FIRST. OF THE CURRENCY.** When the present Constitution of this Commonwealth was adopted, the currency of all these confederated States had already been confided to the General Government, which is empowered, by the Federal Constitution, to regulate commerce, as well foreign as among the several States, to coin money, regulate the value thereof, and punish counterfeiting it. By that Constitution, likewise, the States surrendered all power to coin money, emit bills of credit, or make any thing but gold and silver a tender in payment of debts.

Sore from the evils of paper money, which the exigencies of the revolution extorted, the funding of whose greatly depreciated obligations was one of the first causes of discontent and division between the speculating and substantial classes of the new American nation, any other standard of value than the precious metals, was earnestly deprecated at the outset of American Government, by all the prudent, the patriotic, and the industrious, and was supposed to be guarded against by adequate provisions. For there is no other standard. There can be none. Every attempted substitute is delusive, if not fraudulent; a snare by which industry, morality, private property, and public prosperity, all suffer alike. The effort to coin money out of paper is as absurd as alchymy. Nothing can make a promise on paper to pay a dollar, equal to the actual payment of a dollar: and whenever the promise is, by law, made equal to the fact, the promiser thus privileged unjustly gains at the expense of all others not so privileged. Great commercial operations are, doubtless, accommodated by the use of paper as the substitute for coin; and the credit system, as it is called, has its commercial conveniences. But all paper, not immediately convertible into coin, is of no value, and its credit is merely fictitious. The use of it is like substituting ardent spirits for solid food, as the sustenance of life. It intoxicates and ruins. The reason now much urged against hard money, since paper has been striving to supplant it, that there is not enough for a circulating medium, is the very reason for its being the exclusive standard. It is their scarcity that renders gold and silver the only true money. Iron is more valuable for the useful arts than either of them; but, because it is too plentiful, therefore, it is not a standard: and so, whenever money is so plentiful as to depreciate, it becomes an evil. If a pair of shoes cost one hundred dollars of continental money, it is more inconvenient to both seller and buyer, than if they cost one dollar in silver; and if that dollar be reduced to gold, it is still a greater accommodation. Gold is better than silver, silver than copper, and copper than paper, because of their relative scarcity; so that no scarcity of gold and silver affords any reason for superseding them by a paper circulation. The shocking vicissitudes of an unconvertible paper medium are but too familiar to all experience. They have cost this country more than all its wars. They were the greatest difficulty of the revolution; and they are, at this moment, the most oppressive, by far, of all the public burthens. They have caused a calamitous convulsion.

Accordingly, the Constitution of this State, that of all the other States, and of the Union of the whole, are all predicated of a metallic currency, and



all the fundamental acts of Congress concerning the impost and the mint, in short, the whole groundwork of the Federal Government is entirely laid on that foundation; and the paper superstructure since raised, whether by the several States, or the United States, is an unforeseen usurpation. When the first Secretary of the Treasury, after a struggle still severer than that which introduced the stocks of the funding system, superadded the fiscal conveniences of a national bank, he did not design or expect a paper currency to take the place of gold and silver. On the contrary, public records, the laws, treasury reports, and other State papers of that period, attest that gold and silver, and ready convertible paper, were the only acknowledged circulation.

The Bank of North America, re-established by a law of Pennsylvania, before the present Constitution, after its charter had been annulled by laws, both of the United States and of this State, was the only American bank at that time, unless there was one other in New England, of which your committee are not precisely informed; there were, in effect, no banks. But soon after the establishment of a Bank of the United States, a new and unapprehended experiment was made by the incorporation of State banks, which have since continually increased in numbers and issues, till their paper has become nine tenths of the circulating medium, and at last expelled gold and silver from circulation. The prevailing opinion has been that their notes, when not made legal tender, are legal currency, and the Supreme Court of the United States having lately so determined, we must deal with them as such.

Thus, since that Constitution was adopted, which this Convention is to revise, a power unprovided for by it, and no part of its frame of government, a power which controls value and regulates price, unforeseen by either Federal or State Constitution, has grown upon both Constitutions, become one of our most important institutions, and demands the serious consideration of a body convoked to re-organize a government, to be submitted to the people for their approbation. This power is not only a direct emanation of the sovereignty, but that portion of it which government hitherto has seldom, if ever, parted with. It is one of its highest, if not inalienable attributes. The value of all property depends upon this power, the wages of industry, are fixed by it. Agriculture, commerce, and manufactures, all the useful arts, the comforts of life, and the common welfare, the public loans, debts and credit are under its control. The condition of the currency regulates the condition of every thing else. The currency is the life's blood of the body politic, which cannot be healthy, but when that is sound, and must be disordered whenever that is diseased.

Fortunately for the regulation of the currency, the simple truth is practically familiar to every laborer, to every child, that bank notes, when not forthwith convertible into gold and silver, are good for nothing. Your committee feel painfully relieved from the necessity of proving this reality, by the prevailing recurrence of one of those periodical convulsions which have grown in frequency and intensity with the spread of the paper system. If public sentiment should advance as rapidly for a short time to come, as it has for a short time past, toward a correct understanding of this subject, the evil, though deeply rooted, will be at least much alleviated, if not altogether removed. At this moment, the farmers, mechanics,

and others, who rely on industry and property, without dealing in false credit, or trusting to paper facilities, are free from trouble, with plenty of hard money. The rate of interest is moderate among them, and they scarcely feel the storm raging in the provinces of speculation, while there is intense distress, wherever banks, stocks, credit and speculation predominate. Panic and politics exaggerate the suffering; but there is, no doubt, much of it: many deserving a better fortune, are involved in the ruin of those, who, without either property or industry gambled on borrowed credit, and are now the most clamorous, as they are the least deserving, to be relieved. Instead of imputing their difficulties to false credit, they charge them to Government, whose only misconduct has been, that both the States, and the United States, did not sooner interfere and more strenuously urge the restoration of the metallic currency. For the calamities, and the complaints of 1819, were just like the present, and those of 1825, much the same, and so they will continue while ever the sovereignty is shared with a few interested individuals, whether sole or incorporated, enjoying the power of substituting paper for coin, and making every thing plenty or scarce, as such individuals choose. This is the cause, the great and only original, and the prevailing cause of all the trouble. There may be aggravations of it; your committee are not disposed to deny that the peculiar fiscal condition, and the corresponding acts of the Federal Government, may not have increased the suffering; but those acts are as indispensable as medical treatment to a violent temper: the real cause of complaint is, that such interference was put off so long. Nothing but Government resuming the sovereign powers of regulating currency, which has been usurped from it, can ever permanently cure the disorders the currency suffers, in which resumption the States are called upon to perform a most important part, since it is now settled, that State bank notes are lawful money.

The intimate commercial relations between the United States and Great Britain, which, by the immense cotton trade, and other connexions, render that country and this almost one commercial nation, have aggravated the present convulsion by the involvement of the English banking commercial interest with ours. The Bank of England, with Government sanction, disclosed, forty years ago, the perilous secret that banks may dispense with hard money, and substitute a paper credit, which, for a time, will seem to be prosperity—the prolific source of ultimate debt, confusion, and distress. Possessed of that secret, our banks have followed their example in pushing the paper system to a despotic supremacy, till, like all despotism, we see it at this crisis, fallen to pieces by its own overaction. The banks of England, and of this country, united last year in stimulating over trading, the invariable result of over issues, till our importations of their merchandise exceed, by sixty millions or more, our means to pay for them; while scarcely less than this sum of debt was adventured by bank borrowers, in speculations at home, from Ouisconsin to New Orleans, in every thing real and personal, that could be bought and monopolized. No law can create capital at a stroke which is the slow growing offspring of industry and liberty alone; but discount banks counterfeit capital, the stimulant of morbid and mischievous speculation, more intoxicating than all the intemperance to which men are addicted, and more disastrous than all the vice and immorality that are chargeable

to intemperance. Preposterous luxury, insolvency and crime, are the certain followers of the bank mania, a system of stupendous gambling supersedes and derides regular occupation. Plethora brings on want, unnatural plenty, unnatural scarcity, prices so high, that the working classes were pinched for food; then, all at once, so low, that nothing but a bad currency, speculation, and monopoly, can account for such sudden vicissitudes, the most devouring usury, controversy and litigation. panic, clamor, convulsion; and at last the unlawful refusal of the banks, in a time of profound peace, to redeem their notes in good money. These have been the rapid events of the last few months. With eighty millions of gold and silver, and abundance of every thing needful for prosperity and content, large portions of our people are in a revolutionary state of disquiet and excitement, are reduced to want, and maddened with disappointed hope.

The commercial classes, those indulged favorites of American Government, for whom navies, foreign wars, and large expenditures, have been cheerfully maintained by the agricultural and mechanical classes; and the manufacturing class, whose encouragement has been so costly, have all a perfect right to protection; as it is for the common welfare, that every class should be rendered prosperous; but no class has a right to supremacy, much less has any individual, or a few, the least right to privileges, at the expense of all the rest of the community. Banks, with all their privileged connexions and dependents, ought to be placed on a footing with the industrious, producing and unprivileged, who ask for nothing but liberty, equality, and a government of just law, as the elements of a common prosperity. Vicious speculation should be restrained by vigorous and independent legislation, whereas, unhappily and dishonorably, it is legislation that authorizes speculation and gambling to supplant the precious metals by paper, and has inflicted that degradation by which the country is now suffering the disasters of a currency not much better than that of the revolution, against which all our early institutions so sedulously guarded.

Rooted, as discount banks are, in our habits and business, it is perhaps impossible to remove them altogether, and we must be content with mere meliorations of a bad system. But it may be safely affirmed, that there is not, never was, and cannot be any such bank, without public mischief. The banking system began with the Bank of Venice, as a place of safe deposit, but not of discount or loan, and stood profitably on that foundation for six hundred years; so was the Bank of Amstersdam, for a century and a half, a safe and profitable bank of deposit merely: and so is the Bank of Hamburg. The original and right office of a bank, is to keep money, not to lend it; still less to lend mere credit by promissory notes, instead of money; and less still to lend the credit derived from keeping money not belonging to the bank. The principal gains of all discount banks proceed from doing what courts of justice punish as a fraud, viz: using trust funds. The discovery of this fraud, ruined the Bank of Holland. The Bank of England was established as a temporary relief to Government, and though allowed to discount, can hardly be considered as a discount bank, inasmuch as most of its profits are derived from other means, and most of the discount loans of England are left to other bankers. The Bank of Scotland has flourished for one hundred and forty years, on the charter of, first, the responsibility of every stockholder for all the liabilities of the bank; not merely personal responsibility, but also

by process of attachment; secondly, interest paid on deposits; thirdly, allowing deposits to be overdrawn on payment of interest; and fourthly, giving credits on cash accounts. On such a charter the Bank of Scotland has maintained its credit unimpaired, upon this more responsible, and therefore more prudent, and therefore safer basis; while that of England, chartered about the same time, and banking with all the advantages of the Government deposits, without individual responsibility, has been often in jeopardy, seldom, if ever, able to pay all its debts; for a long time under the total eclipse of suspension of coin payments, until it has become so questionable an institution for public good, that by its last renewal the capital was reduced, the period of recharter was reduced, and the bank accepted it on the condition of being obliged to surrender it on short notice.

American banks, unfortunately taking the Bank of England for their model, have pushed the discount scheme, in its most vicious principle, to ruinous excesses, until the banking mystery is exploded, and the bubble has burst so often that every body now knows, and almost every one feels, that bank notes are never payable, but merely promissory; that banks are almost always insolvent, and their directors the mere holders, by sufferance, of a precarious permission to mimic the sovereignty of state, by a mockery which emergencies never fail to put an end to, but which always explode with commotion, panic, and great inconvenience.

The whole theory and practice of American banks are false and pernicious; their first act being to lend trust money, left with them to keep, their next misconduct is to issue mere promissory notes, instead of gold and silver, which notes do not represent such money. Then they make loans of fictitious credit, by secret and arbitrary discounts, increased or decreased with no regard to public good. The holders of their unpayable notes calling on them for money, the banks oblige their debtors to pay what they have borrowed: thus, without any system, at one time gorging the community with false plenty, at another, straitening it with supposed want, (as six months ago there was actually no want of food, though prices indicated dearth; and at present, when in the midst of plenty, of money there is none), distressing all with either too much or too little of the means of livelihood. Again: bank loans, such as they are, are not made to those who want, to the industrious mechanical classes, but to the speculating and extravagant; often by bank directors to themselves, with which to grind the needy by usurious lending again, or to other unworthy favorites. The laborious and frugal are rarely assisted, but those who are stimulated to live beyond their means, and pursue a course of folly, luxury and insolvency. Nine tenths of them become insolvent, for there is not one prize to a thousand blanks in the bank lottery; and by their assignments, almost always secure the bank, leaving other creditors, friends, and even their own families, to destitution and ruin. It is mainly through bank influence, that courts of justice have been brought to sanction those unjust preferences which have now become part of the established law, although condemned by a whole class of our people as dishonest. Banking and all other corporations, have the best means to fortify themselves with the first professional talents, so that laws are both made and administered to their advantage; and by a sort of priority in the payment of debts, equal to Government prerogative, they take rank of all

other creditors. A report to the Senate of the State, made the 15th of January, 1821, by a committee, of which the chairman was an intelligent merchant of Philadelphia, declares that, had it not been for the practice so universally prevalent among merchants, of securing the banks for the sake of endorsers, banking would long since have been abandoned as an unprofitable trade. The whole of the bank system is an imposition, and a loss; and it may be affirmed, that those despots who recoinéd hard money, and reissued it with an increased nominal value, in order to replenish their treasuries, did not inflict as great injustice on their subjects as we scourge ourselves with, by yielding the sovereignty of the State to the few thus irresistibly tempted to depreciate money and property, tax industry, and distress the community.

It is a gross delusion, of which it is high time to disabuse the public, that our banking system is the spring of those rapid improvements and advances in commerce, manufactures, and the useful arts, which distinguished England and the United States, beyond all other countries. The parentage of these improvements is liberty united with labor. Credit can but lend, while industry always gives. And bank credit never even lends without incumbering its debtors with mortgages and hypothecations. The goods, towns, roads, canals, and other creations, which we too often ascribe to credit, are really due to work, to that incessant labor which freemen delight in, whose chief pleasure is constant employment. All banks might be struck from existence without disadvantage to it. The aid they afford to enterprise is always incumbered with onerous securities, quickly and mercilessly exacted. Individual assistance, by loans from capitalists, would be much more serviceable. Bank resources cannot be greater than the aggregate means of the community, and all capitalists would be lenders, if banks were not privileged to monopolise loans. They make a specious credit, the counterfeit of capital, a sort of volcanic capital, always on the point of explosion, every time it bursts, diminishing confidence in banks, which must soon be altogether exhausted of credit with all who take any heed from experience. There are few now living who have not had more than one serious warning, that discount loans cost more, and yield less, than individual loans, and that instead of being a succour, they are fetters to enterprise.

This imperfect view of American banking, has been confined exclusively to an exposition of its disadvantages in its departures from that metallic basis, which is the only true standard of value, whose coinage and regulation do not belong to the Government of this, or any other State; but have been surrendered, as was before shown, to the Government of these United States. In such view, the bank last chartered by Pennsylvania, formerly the Bank of the United States, is to be considered only as the largest, most lasting, most privileged, and therefore most dangerous, of those magazines of mere credit, which inconsiderate state legislation has given rise to. The capital of the Bank of England is about fifty millions of dollars, that of Ireland about fourteen millions, that of Scotland between six and seven millions, that of France about eighteen millions, and that of the Netherlands about three millions. So that the capital of the State Bank of the United States, is much larger than that of any other bank in the world, in proportion to the population it was created to supply with funds; and it is believed that it never has been able, at any time, to



employ more than five millions of dollars in this State. It has fallen, like all the other banks, in the present convulsion of exploded credit, utterly incapable of realizing the promised ends of its establishment, notwithstanding uncommon privileges, conferred by the State, and a capital large enough to have resisted, successfully, those alleged interferences and irregularities of the Federal Government, which the friends of the American banking system assign as the causes of its present prostration. It may be conceded, that those causes are not without some effect, without, in the least degree affecting the argument which aims to show the utter insufficiency of that system. That system is elementally and essentially false, and the only cause of complaint against the Federal Government, it may be repeated, is, that it did not begin sooner and more strenuously to enforce specie payments, not at the Land Offices, but at the Custom Houses, and for all the public dues. Such resumption, however severe, must take place, and allowed, as it seems, the States are to contribute a large proportion of the currency, much of the difficult and painful, but indispensable duty devolves upon them. It is not for this Convention to prescribe measures of relief for the present calamity. That is the office of legislation. But it is incalculably important that the new Constitution should be fortified with the strongest provisions that can be incorporated with it, in conjunction with the Federal Government, to prevent recurrence and continuance of such evils.

In common with the whole United States, this State is now suffering the most distressing crisis of a disordered currency. The great, first and pervading cause of that disorder, is departure from the specie basis, and the whole strain of this review of the subject, avoiding, as much as possible, those exciting topics which have become party politics, and as such, infuse themselves into all discussion, has been to demonstrate, that to restore the specie standard, and reduce the bank supremacy, is the obvious, the only and the infallible remedy. The last has been a terrible year for this country, more so than any one that has preceded it, since the independence of these United States, distressing at home, and disgraceful abroad. It will require many seasons of prosperous production, to repair the banking ravages of the last two years at home, and a long tract of time to recover the American character lost abroad. The mode of living introduced by the imposing facilities of bank credit, must be reformed altogether: and with the general return, to at least something like the less ostentatious habits of the days of hard money; it is the first interest of this leading State to restore that sterling standard. The manufactures, internal improvements, mineral wealth, commerce, and agriculture of Pennsylvania, in short, the whole industry of the Commonwealth require that, above all things, as their great conservative protection. Accordingly, the articles proposed by your committee, as amendments to the Constitution, contemplate that object as the deliverance and restoration of the currency.

The Legislature, at the first session under the amended Constitution, shall declare by law:

**FIRST.** That there shall be no bank in this State after the year 1842, with a capital exceeding        millions of dollars, and that all bank charters may be always altered or repealed, by law.

**SECOND.** That no bank shall issue or discount notes, until the entire



capital of such bank is paid into, and held by the bank, of which, at least one third shall be gold or silver.

**THIRD.** That no bank shall ever discount notes for more than fifty per cent. beyond the amount of its capital, actually paid and held as aforesaid, nor shall any bank ever divide more than seven per cent. per annum of profits among its stockholders.

**FOURTH.** That no bank shall buy bank notes, stock of any kind, or property, whether real or personal, for profit, or sell gold or silver.

**FIFTH.** That no bank, by the gradual suppression of all bank notes for less than twenty dollars, shall issue any such notes after the year 1841.

**SIXTH.** Prohibiting all preferences by insolvent debtors in favor of banks, and the endorsers, drawers, and all others interested in notes discounted, or held by any bank, so that in case of insolvency, no bank shall have preference or priority in payment of debts.

**SEVENTH.** Rendering all the stockholders of banks liable in their private property for the debts and liabilities of their bank, and liable by process of attachment of such property, whether held by themselves or others.

So extensive a view as the foregoing of the currency, although much abridged of what it might, and perhaps ought to be, renders it indispensable that the notice of the corporations should be brief and summary. They are kindred subjects, and as far as the power of legislation is concerned, much of what is said of the former applies to the latter.

If the principles of the Declaration of Independence, and the Bills of Rights attached to each, and all of the several State Constitutions, are to be faithfully carried out in practice, if these charters of American liberty and equality are realities, things, not mere words, all corporations, especially of perpetuities, conferring privileges for gain, are unrepugnant and radically wrong. For the moment that two or more individuals are associated by act of law, and endowed with privileges which do not belong to them as individuals, all natural, social and political equality is destroyed for their advantage, and to the prejudice of the rest of the community. Equality is put an end to, and an aristocracy is created, which, although without titles, must be inconsistent with the genius and principles of free institutions. The only foundation of republicanism is equality of rights, equality of duties, and equality of responsibilities; and it may well be questioned whether any laws, which assume inequality as the basis of their provisions, are within the scope and trust of republican legislation. They may be called laws, enacted as such, and administered as such, but they do not proceed from the delegated authority of republican legislators, and are no more laws than the rescripts of a Roman Emperor, or the ordinances of any other absolute Monarch. Corporations, introduced as sanctuaries of liberty, and checks upon monarchy, have become the mere fortresses of property. At the period of adopting the first Constitution of Pennsylvania, they were so little known in practice, that it was thought necessary to invest the Legislature with express power to grant them, and it is well known that similar authority was deliberately withheld by its framers from the Constitution of the United States. Thus the numberless and multifarious charters that have been granted, by the present Constitution of this State, are the creatures of a constructive power, both novel and questionable. They are all a compromise of the principle of equality with that of property. Whatever power is given to a corporation, is just so much power

taken from the State, in derogation of the original power of the mass of the community, and violative of the equality of every individual not incorporated. Should no check be put on the present facilities, and habits of incorporating individuals for lucrative purposes, that system of extensive and provident legislation, which guarded against the accumulation and perpetuity of property, by primogeniture and entail, will be completely annulled, and the tenure of property carried back to a system, not feudal in its military features, but much more strict and lasting than feudal tenure. Liberty remains, freedom of speech, of action, of the press, of religion, and of acquiring property; but equality is rapidly disappearing in the possession, distribution, and transmission of it. It may be asserted with truth, that property is more equally divided, and held in France, than in Pennsylvania, where, though personal titles abound, yet property privileges are much less common than here. The impolicy is patent, of transferring to the instrumentality of corporations those creations of the useful arts, for which individual industry is so much more competent and cheap. Association never creates capital, as often supposed, though it is no doubt useful in amassing it—that is to say, in uniting the means of many individuals for accomplishing purposes beyond the means of any one. But, whenever any association is chartered with special privileges, the common equality is destroyed, and it may well be questioned whether republican legislation is authorized by its trust to grant such charter. Labor performed for corporations is like the labor of slaves, more expensive and less productive than free labor. Individual interest and industry are much surer impulses than those of corporation agencies. And here again it is proper to notice, not with censure, but regret, that the courts of justice in this country have not controled the predominance of corporations. The common law respecting them is simple and satisfactory. Incorporation gives to many men no dispensation from law, (except their peculiar privileges) which is not the equal, if not the better right of every man, and it is the settled law that corporate power cannot be carried beyond the letter of its grant. Yet such has been the social and political influence of corporations, that every day they assume constructive powers transcending their charters with perfect impunity; and few, if any, are the instances in which any American court of justice has ever exercised the authority said to belong to courts of justice alone, of annulling a charter or rebuking abuses of it. The great business of legislation, of late years, has been to grant charters; and no considerate man can reflect, without mortification, on the means by which they are accomplished, the purposes to which they are too often applied, the manner of their organization, their number and their influence. Thoroughly impressed, as your committee are, with well considered doubts of the constitutionality of many, and a strong conviction of the impolicy of most of them, they have no hesitation to avow, as will be obvious to this Convention, that the articles proposed to be incorporated in the Constitution, are designed to render it much more difficult than at present, to procure an act of incorporation at all, so that hereafter no such act shall take place without the most cogent necessity.

C. J. INGERSOLL,  
WILLIAM BROWN,  
C. MYERS,  
MARK DARRAH.

No law shall be enacted granting any perpetuity or monopoly for private purposes.

No bill creating, continuing, renewing, prolonging, or supplying any body politic or corporate, (except religious, scientific, literary, or charitable institutions,) shall become a law, but by the concurrent votes of two thirds of the members of two successive Legislatures. Every such bill shall be read throughout, three distinct times, on three different weeks during public sessions of both Houses. After its first reading, the presiding officer of the House, in which it originated, shall cause such bill be published, by printed copies thereof, daily, if there be a daily newspaper, if not, as often as possible, by newspaper or other printed advertisements, during at least one week in the city, town, or county, and as near as may be, in the immediate neighborhood where the said is to operate. And no such bill shall be read a second time, till the said presiding officer certifies to such House that such publication has taken place.

On the final passage of such bill in both Houses, the presiding officer of each shall direct the ayes and noes of all the members voting thereon, to be entered on the journal of each House.

No such bill shall be altered in any way by the Legislature last voting on it.

And if the Governor return it with his objections, it shall not become a law during that session of the Legislature.

All by-laws and enactments of municipal corporations, shall be by them reported to the Speaker of the House of Representatives, on the first day of the session of the Legislature, next succeeding the adoption of such by-laws or enactments, which shall not be in force more than one year, unless confirmed by act of Assembly.

Mr. FULLER moved that there be printed one thousand copies of the report in English, and five hundred in German, for the use of the members of this Convention.

Mr. STEVENS hoped this motion might not prevail. This was a report of a minority of a committee and no such motion had been proposed to the Convention with regard to the report of the majority of the committee; nor had any gentleman thought it worth while to make any such motion with regard to the report of any committee since the meeting of the Convention. He trusted that this was the last report which was, or would be made, which would receive such a sanction from this Convention as to order the printing and dissemination of this document. He had listened to town meeting speeches, and inflammatory harangues from raw Irishmen, and imported democrats, but he never listened to any thing so incendiary in its principles, and absurd in its arguments, as this most extraordinary document, which was presented to the grave Convention of the assembled delegates of this Commonwealth to propose amendments to the Constitution of the State. It seemed to him that at this particular crisis, of all others, such a document as this ought to be withheld from the public mind. At a time when the whole community was ready for an explosion; when a magazine was laid, which a single spark would cause to explode, to the disaster and utter ruin of the whole community, would the Convention permit a member of its body to lay the train and apply the torch? Was it not sufficient that town meetings might be called for the purpose of discussing matters relating to the system of banks and bank-

ing, and the whole system of the currency of the country ; and, perhaps, induce and incite mobs to lay violent hands on the institutions of the country ; turning the populace loose with inflamed mind to bring ruin and destruction upon the country ? He hoped they would not by the sanction of the Convention send out to the country a document which was better calculated to upturn civil society, than any other which he knew of. He hoped they would not sanction the dissemination of a document containing sentiments, such as might only have been expected from some of the corrupt officers of the Government at Washington ; or from some one from the wilds of Missouri, or such place as that ; and he had not supposed that a member of this Convention could have been found to endorse such a document as this, or to further its wild schemes of madness. He was not now going to discuss or to attempt to discuss this extraordinary document, which was laid upon your table ; nor was it for this Convention to discuss a document which only came within the province of the Jack Cades of a polluted city ; but he called upon the Convention to put the mark of reprobation upon it at the outset. He concluded by calling for the yeas and nays, which was seconded.

Mr. FULLER said that this was a question to which the people attached great importance ; and he believed they had it more at heart than any other question which would come up before the Convention ; and when a gentleman rises and criminales the idea of a gentleman bringing forward such a document, he must recollect that he is passing censure upon the constituents of gentlemen ; because the question was not agitated by the JACK CADES of cities as the gentleman supposed, but, by the honest, upright and sober minded citizens of the Commonwealth. It was one of more importance to the people, generally, than the great subject the gentleman from Adams (Mr. STEVENS) had introduced, in relation to secret societies, and for this reason he had made the motion for printing an extra number of this document for the use of the members of the Convention.

Mr. STERIGERE enquired whether, if a motion was made to postpone the subject, the usual number would be printed for the use of the members of the Convention.

The CHAIR said the usual number would be printed in pursuance of an order previously adopted.

Mr. STERIGERE then moved to postpone the report indefinitely.

Mr. KEIM hoped this question would not be postponed. He thought the report of the committee was highly important to the community ; and that we should have an additional number of copies printed for the purpose of dissemination among the people. Much as he was opposed in general to useless expenditure, he nevertheless felt it a duty in this instance to say, that the expenditure should be overlooked for the purpose of bringing this great question, not only before the Convention, but before the people of the Commonwealth. It cannot be denied that great evils exist in this country. Turn where you will, to the North, to the South, to the East, or to the West, and you hear lamentations in every quarter. Every individual citizen of the Commonwealth is heard to say that there is something wrong ; and it cannot be denied that, although the existence of the wrong may be attributed to different causes, a vast proportion of the citizens of this Commonwealth attribute it to the incorporation of banks,

the extension of banking privileges, and the consequent extension of paper currency. This, then, is a question which, if we wish hereafter to avoid the evils which are now pressing upon us, and to correct the difficulties of the times, we must meet; and the sooner the question is met, the sooner will the remedy be applied. Let us bring forth the secrets of the prison house, and expose the rag-bound conclave to public gaze. Whatever may be the source of these evils, they must be met, and the sooner they are met, the sooner will we be able to determine what is the proper course to pursue in relation to them. He hoped the number proposed would be printed.

Mr. DENNY said the gentleman from Berks (Mr. KEIM) desired that a report drawn up by a single individual, should go forth with the stamp of the Convention upon it to the country, and for this very reason, Mr. D. did not wish to send it forth. He did not wish to send it forth with the stamp of the Convention upon it in these times of difficulty and excitement. He should have supposed that the present state of public excitement and alarm, would have prevented the gentleman from Philadelphia county from bringing into this body, and before the public, such a document. He had expected better things from that gentleman, who had been brought up in the city of brotherly love—a city distinguished for its order, for the propriety and correct deportment of its citizens, and for the clemency and moderation with which they conduct themselves when troubles surround them. He had supposed, the gentleman would have proposed pouring oil on the troubled waters, instead of attempting to increase their agitation. Yet, from that gentleman, we have a document here calculated to excite the minds of the people to a very high degree. He did not wish now to go into an examination of the sentiments and views of that report, because it would be spending the time of the Convention unnecessarily; as he believed there would be but few gentlemen who would be found to go with that gentleman in all his views. How this subject came upon us to-day, it was not for him to say, but when it came to be made the subject of discussion, he hoped they would know more about it. If we order this extra number of the document to be printed, it will be asserted that this Convention subscribes to the doctrines therein contained; and he would ask even those gentlemen who belonged to the same political party with that gentleman, whether they were prepared to subscribe to all the sentiments of that instrument. On some points he might agree with the gentleman, but on others there would be a wide difference of opinion. The gentleman from Berks (Mr. KEIM) had spoken of the evils at present existing; but he would ask that gentlemen whether the remedy was here? Some action of the Convention might be proposed as a remedy; and he would wait for that action; but he would not take up with the peculiar sentiments or views of any individual here. He was astonished to have met with this report, as we had restricted and prohibited our standing committees from making any other reports than simple amendments to the Constitution; and he had supposed, that the same rule which bound our standing committees, would have applied to the special committees. He considered it improper to permit special committees to bring in elaborate reports, while we bound down our standing committees to report nothing but propositions of amendments. The Convention, in so restricting its committees, had a great object in view, which was, that they might



not have the time of the body consumed with the special reasoning of individuals : and the journals encumbered with lengthy reports. If gentlemen were disposed to provide any remedy for the evils existing, and he would not say by what power, or from what cause these evils were brought upon us, they should apply some other remedy than the sending forth by the sanction of the Convention such a document as this. He trusted the question to postpone might prevail.

Mr. Cox hoped the motion to postpone would prevail ; and he hoped so, because he thought this report ought to be stamped with the mark of disapprobation by the Convention. He thought with the gentleman from Adams on this occasion, and with him he regretted that such a document should be thrown into the Convention at this time. Sir, we have been told by some gentlemen, that this Convention may endeavor to provide some remedy for the evils existing. He would tell gentlemen that it was beyond the powers of this Convention and beyond the power of any one State to provide such a remedy. It was not with any one of the States that the evil had its origin ; nor was it with any two or any three States that it had its origin. But, you know, Mr. President, and we all know, who know any thing at all, where it had its origin ; and we all know, that the remedy and relief must come from the same quarter and the same source, and if it does not come from these, it cannot come at all. We all know that there has been a time when there was not more than thirty millions of dollars of gold and silver, in the country ; and, at that time with but few banks, we had a perfectly safe and secure currency. Sir, we know too, that there never was a time when there was a greater degree of confidence existing in the country in money matters, than when the war was first commenced upon the Bank of the United States. We know the currency never was healthier than at that time, but a series of experiments were commenced to gratify a set of men, who either disregarded the interests of the country, or were too ignorant to understand them. One experiment was resorted to after another, until the country is involved in the greatest difficulties. Now, the gold humbug experiment has been tested, and what has it turned out to be ? Why, it has turned out that instead of putting gold in general circulation, the country has been involved in ruin ; and yet, forsooth, we are told by gentlemen that it is owing to the creation of banks. Why, sir, we must know, if we examine the causes and effects of this matter, that it was created by an undue interference with the currency of the nation ; and we do know, from the experience we have had, that without a great balance wheel to regulate the currency, a sound circulating medium never can be established. Gentlemen seemed to speak of gold and silver as the only legitimate currency, and that every thing else was a fraud upon the people. Well, where would you be, granting that there is eighty millions of gold and silver in the country, if that was the only currency ; and the Government receiving as revenue, from forty to fifty millions of dollars a year ; when that sum is withdrawn from your circulating medium, and put in your treasury, where is to be your currency to meet all your commercial engagements ? Gentlemen had said a great deal too, about the people, and that they were imposed upon by these rag emanations : and what would be the condition of the laboring classes, if the wild and chimerical schemes of gentlemen were carried into effect ? Why, sir, a laborer



would not receive more than twenty-five cents a day ; and yet, it is for the interests of the people that this is to be done—to destroy aristocracy and place all upon an equality. He had not intended to go into an argument of this matter at present, but he would take occasion to point to some of the effects which this experiment would produce. If corporations were destroyed, and we had nothing but a specie circulation, what would be the effect? Why, there would be some few men of capital in the country, men who would have some money in their hands, and they would grind the laboring classes to the dust. They would have every thing in their own hands, and so far from bringing about an equality, it would be making the rich richer, and the poor more poor ; and aristocracy would increase and become tenfold more powerful, unless, perhaps, it might be checked by the levelling principle which had become so popular in some places. Mr. Cox did not believe in all this talk about the democracy and aristocracy of the country. He found, sometimes, those who make the loudest professions of attachments to the interests of the people, were not very particular about the people when self interest was concerned. There were some who professed great attachment for the people, for the interests of the people, and for the liberty of the people, but when they came to be tried, and when self interest was concerned, the dear people were lost sight of, and their own pockets were only looked to. He had once heard of a man who had professed great attachment to the people, and who had proclaimed himself the people's friend on certain occasions, who had purchased an article from a poor man, and when the poor man's bill was presented to him, he—having written a petition for him and attached his name to it—wrote at the bottom of the bill, “satisfied by professional services”. He had only heard of such a man, and perhaps there might be many such. He did not believe in so much talk about the people and the people's interests, when actions did not accord with professions.

Mr. INGERSOLL rose to enquire whether the gentleman alluded to him.

Mr. Cox trusted the gentleman would not take it to himself, unless he alluded to him personally, or in such a way that he could not be mistaken. He had said that he only heard of such a person, and he had not even intimated that such a person was in this body, although there might be some such. In relation to the derangement of the currency, it had been anticipated for years. It had been asserted when the war was first commenced upon the United States' Bank, that such a state of things must occur, unless there was a balance wheel to regulate the currency of the country. It had been said by a distinguished Senator from this State, in reference to the old National Bank, that the experiment had been tried of getting along without such an institution, and it had failed. The experiment had again been tried, and failed, and the country involved in ruin. He trusted, therefore, that the Convention would put the seal of condemnation upon the minority report of the committee.

Mr. STERIGERE then withdrew his motion to postpone.

Mr. Cox renewed it.

Mr. CHANDLER, of Philadelphia, was pleased that the motion to postpone was withdrawn, as it was his desire to have the subject now disposed of, so that it could not be sprung upon the Convention at a future day. He was not about to say a single word in relation to the currency, but merely to make some suggestion with respect to this paper. If this

document, which now appeared to be a most dangerous matter to promulgate, should be sent abroad by the sanction of the Convention, he feared it would have an undue influence. The gentleman, however, had the customary means of bringing it before the public eye, namely, through his party press, which was always open to him, as the press of the opposite party was to individuals on this side of the question; and the gentleman could bring it before the public in this way. The paper was calculated to create an excitement in the public mind, at any time, but more especially so at the present time, in the city of Philadelphia. He held in his hand a city paper of yesterday, containing the proclamation of the Sheriff of Philadelphia county, authorizing an election to be held in the third district, for a member of Congress, to fill the vacancy occasioned by the death of Mr. HARPER. He did not know whether the gentleman from the county was acquainted with this fact, but under this proclamation the excitement is very much increased.

Mr. INGERSOLL said he was not advised of the fact.

Mr. CHANDLER said the very disclaimer of the gentleman furnished a reason why this document should not be sent out to add fuel to these flames. Whatever the gentleman's views were with regard to that district, he never could believe that he had got up this paper with a view of having any effect upon that election. If the document was sent out to the people through the public papers, they might read it to be sure, but they would read it without the high sanction of the Convention.

Mr. FULLER then withdrew the motion to print.

Mr. M'CAHEN renewed it.

Mr. M'CAHEN should not have been fastidious in relation to the printing of this document, did he not believe that from the temper and excitement manifested by some of the gentlemen, it contained truths which were not very palatable to those gentlemen. He never believed personal altercation in debate to be productive of any good; and he apprehended that the personal remarks of gentlemen upon that occasion would create unpleasant feelings; and certainly they could produce no happy result.

Some gentlemen seemed to have monopolized all the wisdom and learning of the day, and the exclusive attachment to the "laws"; and appeared to regard the people as a mass of ignorance, who disregarded the law, and were ready for revolution; they were not only unfit to *govern*, but to judge for themselves. He had frequently, no doubt, exposed himself to the ridicule of certain gentlemen, while defending the rights and interests of his constituents. That, however, had not mortified him in the least, but even if it had, he, perhaps, might have found consolation in reflecting that he had seen *great* men do many *small* and *foolish* things.

The gentleman from Adams (Mr. STEVENS) had remarked that the production which had been read, reminded him of town meetings at which "raw Irishmen" had harangued, and that he never listened to more "inflammatory" declamation. Now he (Mr. M'CAHEN) did not suppose that the report was more alarming or "inflammatory" than the "raw-head and bloody-bones" of masonry.

The gentleman from Allegheny (Mr. DENNY) did not suppose that it could be read by the people without producing alarm and dismay among them, and a violation of the laws; the gentleman from the city of Philadelphia, (Mr. CHANDLER) who had just read from the proclamation of the

Sheriff, relative to the election of a member from the third congressional district, expressed great fear as to the consequences of a publication of this matter; he also adverted to the town meeting, held recently by the people of the city and county. He (Mr. M'CAHEN) did not apprehend that the "proclamation of the Sheriff", or the "town meeting", would make any difference in the effect to be produced by the paper in question, and he supposed in regard to the views of the gentleman from Allegheny, that it was merely a difference of opinion, and that the gentleman from the city of Philadelphia would bear him out in the assertion, that the assemblies of the people upon the suspension of specie payments, were characterized by their peaceable and praiseworthy deportment, their *obedience to the laws!* and their just and proper *exercise* of their *rights* in seeking a *remedy* for the grievances they complained of; they believed that these incorporated institutions had violated the laws, and they were lawfully adopting the means proper for a redress of the injuries under which they suffered; it was, therefore, an unjust attack upon the *intelligence of the people*, when gentlemen asserted that this production or any other argument would produce an improper excitement, or disregard of the laws by *them*. Again, you cannot prevent the public from obtaining a knowledge of the contents of this report.

Mr. J. R. CHANDLER asked if the gentleman was in order; he thought he was not speaking to the question before the Convention.

Mr. M'CAHEN thought he was in order, and was speaking to the question, perhaps more closely than others, inexperienced as he was.

The PRESIDENT said that the gentleman was not out of order, and might proceed with his remarks.

Mr. M'CAHEN hoped that he should always conduct himself in such manner, as not to violate the rules of the Convention, or waste its time, by digressing from the subject under consideration.

Well, the people of Philadelphia had held meetings there, and had expressed their views and sentiments relative to the existing difficulties, and will any gentleman say they violated law, or exercised any right which did not strictly belong to them? If the banking institutions were permitted to violate the laws with impunity, they who were supposed to be ignorant of law, might certainly find extenuation for their conduct in the mighty example before them; but, sir, I deny that they have violated law, or are in a state of revolution; those who were willing to violate the *laws of the land*, and talked of *revolution*, sustained the cause of existing excitements, and resisted the application of the laws, whilst those accused by gentlemen in this Convention, were ready to defend the laws.

He had no objection to the speeches of gentlemen who have spoken against this document, going forth to the public with the report, and he did not apprehend any inflammatory effect from the circulation of the same, and no other than he should be glad to see and hear. He therefore hoped the resolution would prevail.


Mr. CHAMBERS was opposed to sending out a document of this character under the sanction of the Convention. It was, as had been remarked, an inflammatory document, and it certainly was a one sided one, and he could not agree with the gentleman from Philadelphia, that it was unanswerable. He was not willing to admit that it was consistent, and contained the wisdom of this body. On the contrary, it was fallacious and unfound-

ed, and should not be circulated by the sanction of the votes of the delegates of this body. What did it propose? Why, it proposed to condemn the legislation of this Commonwealth in relation to our banks, and all the corporations which had greatly contributed to render Pennsylvania prosperous beyond any other State of the Union. Pennsylvania was to be represented as ground down by the iron hand of oppression, by the gross abuse of the legislative power, and that it had produced the present distress. He desired to know whether the Convention was prepared to make so serious a charge as this? What had been the corporations created, and what was the mischief which they had produced? Was it not to corporations that we are indebted to the great improvements that have been made in the State? Was it not to corporations that we are indebted for turnpike roads running from one end of the Commonwealth to the other, intersecting every portion of it, where, before, there were only rough roads, upon which pack-horses could scarcely travel? Was it not to corporations that we are indebted for splendid edifices of learning, deaf and dumb asylums, and for other invaluable public improvements? Was the Convention then, he asked, prepared to sanction the unequivocal condemnation of the legislation that created them? Equally exceptionable was the proposed condemnation in regard to the banks. Were the difficulties now felt by us, arising from an inflated paper currency, chargeable to the legislation of Pennsylvania? No, we knew the fact was otherwise. We knew that the legislation of Pennsylvania, in reference to the currency, must be governed, in a great measure, by that of the other States of this Union, as well as with reference to the trade of all the world. Was it intended by the gentleman who had brought forward his report, not only to bind us down to a hard money currency, but to confine the intercourse and trade of the Commonwealth within its own boundaries? Did he propose to build up a Chinese wall around this Commonwealth, and say to the whole world that they shall not trade with us unless they do so in our own currency? Was the Convention prepared to subscribe to such terms as those? He (Mr. C.) trusted not. He was opposed to giving publication to the essays of this select committee in preference to those of any other committee. In organizing the standing committees, they were restricted to definite propositions, and not permitted to report papers containing speculations on the subjects committed to them. And, it must have been through inadvertence, that the select committee, from which the gentleman's report came, was not limited in the same respect. There could be no doubt that that was the general understanding: it certainly was his (Mr. C's.) impression until he looked at the resolution, and discovered his mistake.

He regarded it as a most extraordinary and unprecedented thing that a proposition should have been made for the printing of an extra number of this minority report, when none had been presented by the majority. When a report was made by the majority of a committee it was usual to print that of the minority, in order to enable them to make known the reasons which they had for dissenting from the conclusion to which the majority had come. But, in the present instance, that necessity did not exist, for the majority had reported merely a distinct proposition. He, therefore, could not see the slightest reason for printing more than the usual number of copies. Indeed, he had no idea of circulating this document throughout the country, under the sanction of this Convention.

Mr. DUNLAP said that had it not been for the arguments and anxiety expressed by his friends around him, in relation to this report, he certainly should have been disposed to give it the most extensive circulation which its friends could possibly desire. So far as regarded its being spread before the people, he would (independent of the matter of expense,) have willingly agreed to sow the whole Commonwealth three feet deep with it. It seems to me, sir, (said he) there is not the least occasion for the alarm, which some of my friends have exhibited, respecting this report; I look upon it as perfectly harmless, to those at least who dread its effects. We have often beheld, sir, portentous meteors of the air that affright, not merely particular districts, but whole nations, from their propriety; that alarm, sir, the whole terraqueous globe with the direst apprehensions. Why, sir, have we not beheld the whole world thrown into tremulous dread, at the approach of some fearful comet: a comet, sir, which on a little careful examination has exhibited the most amusing tenuity; which, instead of displaying that alarming solidity of matter, which was so apparently manifest, has dwindled upon nearer approach, into perfect mist, so harmless, sir, and so thin, as to be seen through, with one eye shut. What, sir, have we to fear from this report? Sir, I esteem it perfectly gentle; harmless as the comet of Encke, that all the astronomers have been able to see through, without the least difficulty; a mere globule of steam and vapour. I ask you, sir, is it not sweet and flowing in its language; is it not written by a gentleman of the most cultivated understanding, in the most polished style, in all the courteous and winning way, so peculiar to this particular gentleman from the county? Is it not profound, sir; profound as it is polished; and will we refuse to spread before the people, this beautiful sample of intellectual effort? We are told that it is inaccurate in its facts, delusive in its reasoning, and unsound in its deductions. Well, sir, suppose it is; is that any reason it should not be printed? If it is a mere picture of the works of fancy, the mere vagaries of genius, would you not let the people have a look at it? We permit our children to read the tales of the Arabian Nights; and is this more false than they? The Metamorphoses of Ovid are studied by our boys; and is there any thing more monstrous in this abused and pelted document? If we can suffer the Arabian Tales and the Metamorphoses of Ovid, to be matter of amusement to our children, won't you, sir—I ask you imploringly—won't you let this elegant and polished document be presented to the full grown men and women of this Commonwealth?

Why, sir, they'll get it any how; do not gentlemen know, have they yet to learn that it will be printed by that very accurate and industrious paper, the Daily Chronicle, (which shows us up so prettily to our fellow citizens every morning) which will most indubitably print it? That no less than twenty-seven-and-thirty hundred copies will be laid on our desks by to-morrow, by the indefatigable GUYER? Have they yet to learn that every printer in the State will print it, as sure as he can lay his hands on it? Are there not at least two hundred editors, sir, throughout the State, standing with outstretched arms and open mouths, ready to seize with eagerness upon every thing that falls from this Convention, to spread it before their readers? Let them have it, then; what mighty harm is it to do? The people are just made of the same materials as ourselves. They are quite as competent judges of truth and error as ourselves. I do not feel





the slightest apprehension from the reading of any such reports by the people. I love the dear people quite as much, and, I have no doubt, as sincerely, as the gentleman from Philadelphia. I have entire confidence in them, sir; and if I have any fault at all, as a politician, it is in loving the dear people too much.

Sir, I wish this document to go forth and spread itself to every fire-side in our country. It is but of a piece with certain other papers which have emanated from certain distinguished partisans of the party to which the gentleman belongs, which have so justly alarmed the thinking people of Pennsylvania. I allude, sir, to certain letters written just before the late political contest, to produce effect; and God knows they did produce an effect of the most salutary nature. One of those letters was written in a certain city in the far west, by one of the most polished and courteous gentlemen—one who loved the dear people with the most ardent devotion—a distinguished Senator of panic memory—and, sir, doleful to relate, it killed him dead—dead, sir, as GARRICK.

Another paper of similar issue was penned by another distinguished Senator of the East—a Senator who is now enjoying the reward of his adhesion in the shape of a Russian mission—tossed, perhaps at this moment, upon the foaming billows, for his own, and his country's good—if, sir, the Government have been able to find enough of the gold currency to set the vessel afloat in which he is to sail, and which I regret very deeply to hear, is probably not the case. That letter, sir—I mean the famous Bradford letter—was fraught with horrors. The friends of sound principles were in the deepest apprehension. They imagined that the whole edifice of their institutions would be prostrated, and that riot and radicalism would soon be triumphant. But what was the result; the people to whom it was addressed were shocked at its pretensions, and it brought his party to the brink of annihilation. This report, I hope, sir, will finish the little remnant which the Bradford letter left to the chieftain of his choice. I think, sir, that majority was whittled down, to the mortification of himself and his friends, to about 3500; and, I think, sir, this report is fully adequate to the entire overthrow of that diminutive remnant. I speak, sir, with great deference, and hope, if I have over estimated its powers, that the gentleman will be kind enough to put me right.

But, sir, (said Mr. D.) I do not by any means believe that the gentleman himself anticipated any such prodigious effects to result from throwing this paper of his before the people of Pennsylvania. I doubt, sir, if he expects that it will revolutionize the public feeling upon the subject of their present miseries, and console them for the errors of the Government, by which the business of the country has been so shattered. I feel strongly inclined to think it is only intended to operate for the particular occasion upon Southwark, and the Northern Liberties. If the gentleman's district can be persuaded that this paper contains a panacea for their woes, why, let them be soothed. Let him have the credit of alleviating their sufferings, if only so long as to secure their good graces till the approaching contest.

There is another reason, sir, why I would be willing to gratify the learned gentleman and his friends in the publication of this report. It is laid down by the great Apostle of Liberty, Mr. JEFFERSON—and, sir, I give him that appellation, however little some gentlemen here may think him



sincerely entitled to it, for his uniform and untiring defence of the free, untrammelled exercise of opinion. It is laid down by that distinguished republican, that error might be safely tolerated wherever reason was left free to combat. Let it then go forth far and near amongst the people, to meet the doom to which it is destined. That this report is fraught with illogical deductions, will be apparent to every one who may happen to peruse it. We are told, for instance, if I heard it rightly read, that banks are monopolies; that they are aristocratic institutions, and calculated to oppress the people, and that the best and properest loaners of money are the wealthy individuals. Now, sir, can any position be more erroneous in fact and theory? Who are those monopolizers and aristocrats, sir, who own the banks, but the people? Take, for instance, the bank of Chambersburg, which I only select as one I am best acquainted with. The capital of that bank, paid in, is \$250,000, or thereabouts, the stock of which is held by not less than 300 stockholders, being an average of a little over \$800 each. Now, sir, who are these stockholders? Why, sir, our most respectable people, who, I am sure, have quite as little aristocracy about them as the gentleman himself. Many of them, too, are widows and orphans, frail old women and toddling children. These are pretty stuff, truly, to make aristocrats of. Sir, we are told of the evil which banks have inflicted on the country; an evil more pernicious and dangerous than the spirit of intemperance; but, sir, who laid and completed your turnpike roads throughout your State? Who built your bridges, and contributed to your seminaries of learning, and filled the coffers of your State, and aided her with loans? Sir, when the gentleman informs us that the proper loaners of money are private individuals, I would ask him how many of the 300 stockholders I have spoken of, if the banks were prostrated, would be lenders of money? Why, sir, but some half a dozen at most; and, sir, I would further ask any man not carried away by fanciful theories, whether the individual usurer would be more favorable to the poor debtor than the banks. Who are the very SHYLOCKS of the country, the banks, or the individual usurer, who knows no limits to his rapacity but the exigencies of the borrower? Banks, sir, must lend at limited rates; the money lender, the shaver, evades the law, and knows no limit to his exactions. Sir, (said Mr. D.) the gentleman must look further than to the banking interest for the present prostrate condition of our country. This deplorable condition is to be distinctly traced to the measures of the General Government, the vices of which I do not feel justified in discussing upon this floor.

There is one more reason, Mr. President, why I should have no objection to indulge the gentleman from the county, in the promulgation of this report, and that is, sir, that I should be glad to see the gentleman show himself off in the two very distinct political attitudes which he has certainly occupied within the last few years. That gentleman and I had the honour to sit once in the New York 'Tariff' Convention, and he there took a distinguished position, as his talents and acquirements must always necessarily place him in. There that gentleman charmed us all with the soundness of his views, and the beauty of their development in the very able address, of which he was, to some considerable extent, the author. There, sir, he sang the sweetest notes of the nightingale upon all the sound principles of protection of domestic industry, against foreign competition. (Mr.

INGERSOLL here said, smiling, there was nothing about banks, sir). Well, sir, (said Mr. D.) may be there was not, but there was so much said by the gentleman in favor of the Tariff, and so well said, that I have a fair right to conclude that he was in favor of a sound currency, and the utmost facility of exchange, and the best means of preserving both.

I think, sir, if I am not mistaken, and if I am, I hope the gentleman will correct me, as to facts, that he was so exceedingly devoted to all these great interests, that he went on to Washington as an agent of the friends of domestic industry, to aid their cause before the Congress of the United States; and, indeed, I have heard, Mr. President, that in his ardor to serve the friends of the manufacturing interests, that he actually, to render his efforts more effective, dressed himself in a suit of homespun. In this latter particular, however, (said Mr. D.) I should by no means wish to be understood as positive, but I may venture to say that I am fully aware that the gentleman had made ample arrangements for procuring it. If I am incorrect, I appeal, sir, to the gentleman, in hopes that he will kindly put me right. (Here Mr. INGERSOLL smiled very complacently, but made no reply.)

Sir, I said (continued Mr. D.) that I wished this report to go out, for the purpose of enabling the gentleman to exhibit himself to his constituents in the several positions he may have found it suitable to assume, during his political career. I have read somewhere in Physiological works, Mr. President, that the human frame undergoes a total change, body and breeches, sir, every seven years. I am not exactly sure about the time, may be it's 20 years. I don't read a very great deal, sir, and I can't undertake to be positive, but I think it is seven years. It may be more, but I'll take it to be a term of seven years in which a man's frame undergoes an entire change; the whole material of his physical system is revolutionized; the old matter, sir, down to the very bones, passes off, and the waste is supplied by a new deposit. This is ascertained, sir, I understand, by feeding little pigs on madder, or some such coloring matter, and watching the progress of the color infused into the bones when the little animal is killed. The precise color of the political opinions of our friend from the county, some eight or nine years ago, I do not exactly undertake to assert; but I think, sir, (said Mr. D., inquisitively, and turning to Mr. I.) you held office about that time, under Mr. ADAMS. Well, Mr. President, it is discovered on the death of these little pigs, that in precisely seven years they undergo a complete revolution and become new pigs entirely. Thus, Mr. President, as it is with the pigs and the madder, so it is with men; I mean some men and their politics. They become dyed, sir, not only as a very distinguished Senator said on a very distinguished occasion—dyed not only in the wool, but actually in their bones; and yet, sir, this color works out about every seven years along with the ossious matter to which it gave the tinge.

There is but one other matter, sir, and I will close these hasty and casual remarks. I understand, sir, the gentleman to design to restrict the power of the Legislature in granting bank charters, so that it will require two thirds of the two Houses to pass any bill to that effect. There is nothing surprises me more than to see gentlemen constantly lauding the power of majorities, seeming to wish to see a majority always triumphant, and yet proposing to restrict that very majority; to tie the majority hand and foot,

and place them in the power of a minority. This would be certainly the practical effect of the restriction, and he implored the House never to consent to destroy the power of the majority of the representatives of the people acting in their legislative capacity, unless for reasons far more cogent than those urged by the gentleman from Philadelphia.

Mr. DORAN said, Mr. Chairman, I am in favor of printing and circulating the report, because it is an excellent paper, and conveys much information. Gentlemen in the course of the debate, have said it is incendiary and full of errors, and therefore should be kept from the people, who are now in a feverish and excited state, and will, by reading of it, be encouraged to a violation of the laws. When gentlemen say such is their reason for refusing to print the report, much as I respect their assertion as men, as politicians I do not believe them. If the report be full of errors, why not print it: the people can detect them. Does any one believe that the people are too stupid to detect the errors and absurdities which gentlemen have boldly declared are apparent on the face of it? No man in this Convention, however deeply he may be impressed with such a belief, and bold as he may be, would venture directly to make an assertion so insulting to the freemen of this Commonwealth. Sir, I cannot but think that if there were errors in the report, these same gentlemen would be most desirous of sending it abroad to the world, that the people might themselves see the false and dangerous doctrines entertained by those whom they term radicals, and which these same radicals desire to have moulded in their new Constitution. We all know how industrious those gentlemen and their friends were in publishing the letter of Mr. DALLAS, (Jacobinical as they said that letter was) shortly before the last election, when they found that it could be made useful to them and such an interpretation given to it as would alarm the prejudices and interests of the honest farmers of Pennsylvania. The cry then was, print, print, read, read, and they circulated the letter, with its false, unnatural, and forced commentary, to the utmost confines of the State. Not a man, woman, or child but was made acquainted with Mr. DALLAS and his letter, through Whig and Anti-Masonic industry; and they exultingly exclaimed, when they saw the poison operate on the body politic in the way they desired, "Oh, that mine enemy would write another book". Such would be their course now in relation to the report, and they would overload the mails with it, did they sincerely think it erroneous; but they have been struck by its truth, and they well know that the people, if they are permitted to read the report, will also be struck by its truth, and that it will have a great influence over the opinions of the sterling and unbought Democracy of the land; and, therefore, it is, they wish it not to be printed and circulated. Ah! but the people of this Commonwealth are easily excited—they are in an excitable state, and we ought not to excite them to acts of violence. Strange language indeed, to be used in this country, whose citizens are proverbial for their grave and sober conduct, and whose institutions depend, for their existence, not on the bayonet or the sword, but on the virtue, the reason, and the intelligence of the people!

Sir, the language is out of place here—it may suit the corrupted atmosphere of Vienna or Petersburg, where the sick slaves of a despot revel in all the bloated pride of a pampered aristocracy—it may fit the lips of an English tory or an Irish conservative—it may delight the ear of an admi-

rer of the Holy Alliance, but it is quite inappropriate in an assembly composed of freemen, legislating and acting for freemen—it is degrading, it is insulting to be used in a free country, where every man has an interest, the same, and an equal interest, in supporting the government under which he lives—where the farmer, and the labourer, and the mechanic are as well qualified to decide between right and wrong, and as little subject to the influence of incendiary appeals, as the richest merchant or the richest lawyer in the land. I have no fears of the people; I am willing to confide in their patriotism, their discrimination, their good sense, and their forbearance, and I am ready to trust them with the truth, the whole truth, and nothing but the truth. It is the fact, sir, that distressed as the whole country is, this is not the day of mobs, of violence, of riots, and of bloodshed. Was not a meeting of twenty thousand persons held but a few days since in the city of Philadelphia, composed, principally, of men emanating, as the gentleman from Adams (Mr. STEVENS) will have it, from the political purlieus of a populous metropolis—but notwithstanding his sweeping declaration, be it understood, composed of men as respectable, in point of worth or knowledge, as that gentleman, or any other gentleman in this Convention—brought to penury's door, not by their faults, but by the follies and extravagancies of gambling stock-jobbers, unprincipled speculators, and improvident traders? I mean, sir, the industrious and intelligent operatives and mechanics of the city and county of Philadelphia; and yet, large as the meeting was, with every thing bearing on their minds calculated to stir up their passions and to fan them to sedition and disorder, they transacted their business, they discussed, they considered their evils, they adopted their measures, they separated and retired to their homes, so quietly and so orderly that they drew forth the entire approbation of the public press, and of men of all parties. I appeal to the gentleman from Philadelphia, (Mr. CHANDLER) himself the editor of a newspaper, whether I have exaggerated either the numbers or the conduct of that meeting. Idle would it be, then, to say that individuals who attended it could not be trusted with the report; and yet they are precisely such persons as make up the people of this Commonwealth; not rich, certainly, but sober, industrious, and honest men, who really support themselves by the sweat of their brow; two thirds of whom, according to the high-toned opinions of some gentlemen, have neither common sense nor common honesty. As to the matters contained in the report, they are sufficiently important to claim our notice; for what topics could you select of more interest to the people, and on which they more desire the action of the Convention, than those of banks and the currency? Certainly none. Who doubts that the whole country is convulsed to its centre; and who doubts that it is owing to banks and banking, and to a consequent deranged state of the currency? Our own table has upon it several memorials from the citizens of this Commonwealth on the subject of banks and the currency, praying the interference of the Convention in relation to them; and the large meeting in Philadelphia of which I spoke, specially asked our interference to save them from the evils of an irredeemable paper currency.

It is then our duty to consider those subjects, and although there is, doubtless, a diversity of opinion in relation to them, still the opinions of all the members of the Convention should be expressed, that when we decide upon them we may come to a proper conclusion, and endeavor, if

we can, by a Constitutional provision, if not to relieve the present distress among our fellow citizens, at least to prevent its repetition. Now, sir, this report takes a wide and extended view of them, and true or false as the view may be, it is the result of a reflecting and master mind, acquainted with all their details; such a view as ought to be printed that we may read and examine it, and reflect upon it, and transmit it to our constituents for their consideration and opinion. Gentlemen affect to be horror struck at the doctrines broached in the report: before they condemn and stigmatize them as radical and agrarian, I ask them to compare them with those that are maintained by their great champion, Mr. WEBSTER, and see whether they are so different from his as will justify the epithets that have been lavished upon them. Listen to the language of Mr. WEBSTER: "I profess to be a bullionist, in the usual and accepted sense of that word. I am for a specie basis for our circulation, and for specie as a part of the circulation, as far as it may be practicable and convenient. I ask for giving no value to paper, merely as paper: I abhor paper; that is to say, irredeemable paper; paper that may not be converted into gold and silver at the will of the holder". Precisely what is contended for in the report, and what we agrarians and radicals desire—no paper but that which may be converted into gold and silver at the will of the holder. Did the meeting in Philadelphia ask for more? Did they proclaim a crusade against all banks? No, they did not. They said, and we say, that whenever a bank issues a bank note, she shall at all times be prepared to redeem it in gold and silver, and that the moment she ceases to do this, she becomes a public burden, and her charter should be revoked, and that the Legislature which incorporates the bank, as well as any future Legislature, has at all times a control over it, though its charter should be a grant in perpetuity. To accomplish these desirable and reasonable objects; to render banks not the masters, but the servants of the public; to make them really useful; to prevent their unnecessary increase, and to render them always subject and amenable to the people, is what the report aims at, and for those purposes suggests certain amendments to the Constitution. Such are the principles of the party with whom I have the honour to act, and such, I apprehend, will be the principles of the Anti-bank State Convention, which will meet in this borough on the 4th day of next July. We are asked for a precedent to justify the printing of a minority report. That precedent can be furnished, and from a quarter of the highest authority with the gentlemen who call for a precedent. When the majority of the committee of the House of Representatives of the United States reported, not long ago, against the re-charter of the United States bank, and the minority of that committee, through Mr. JOHN Q. ADAMS, presented a long and laboured report in favour of it, the democratic members in Congress did not object to the printing of the minority report, but agreed to it, to a number that was asked for by the friends of that institution, and accordingly it was printed, and the whole country was inundated with it, and at a time when the public mind was more unsettled and excited than it now is. That minority report was franked and distributed in thousands by every whig member in Congress, while the tocsin of panic and pressure resounded throughout the country; a panic and pressure created by the bank herself, in order to wring from the people a monopoly and charter. What, sir, will be said of us in case we refuse to print the report? Why, that although we had



heard depicted with the pencil of truth the evils and dangers of banks, and had spread before us the means of preserving the sound currency of the country, such was the vast influence of the former, that we dared not to publish any thing that tended to weaken them or to awaken the attention of the public towards a vast monied power, unknown to our fathers when they formed the Constitution, now growing every day stronger and stronger, and which will, unless restrained in time, destroy our liberties forever. To avoid such a reproach, I, for one, will vote for the printing of the report.

Mr. EARLE was glad, he said, that the committee had made this report, and with some parts of it he was much pleased, but, at the same time, he regretted that the motion to print an extraordinary number had been made. He regretted it, because it seemed to be viewed by gentlemen as a party question, connected with national politics, and he wished to shun the agitation of these questions, until after we had acted on these great measures of reform, for the effecting of which the Convention was called, and in relation to which, the party to which he belonged, must have the co-operation of a portion of the other party, or they could not succeed.

When he had discovered, as he thought, a disposition among those opposed to reform, to introduce party questions, in reference to national politics merely, and disconnected with our proper business, he had warned the Convention, that it was an effort to divide the friends of reform, create hostile feelings, and seduce a portion of them from the support of the constitutional changes, to effect which they were elected. He now thought that his political friends, if they considered this as a party question, would, by agitating it at this moment, be in danger of producing the same result that they, with himself, had deprecated when attempted by the other side. It was evident, that the relative numbers here were such, that the friends of the National Administration could gain nothing by increasing party excitement in this body. If the proposed extra printing was a party measure, and as such, was a proper and justifiable one, he would go for it, as he always would, for just and proper measures of the party to which he was attached. But, he could not view the additional expenditure now proposed, in that light. We were to act on matters here for the whole people, and should support the resolution, or oppose it, according to its furtherance of the objects for which we were sent here. Printing, in bodies of this kind, was for the purpose of informing the people of proposed measures, that they might oppose or support them, by petition or otherwise. This information would be sufficiently diffused for the purpose, by the 4000 copies of the Daily Chronicle, in addition to the newspapers, which would contain the report. There were not, as yet, a very great portion of citizens who would read long articles on the subject of banking; but he hoped the science was advancing, and would ere long be thoroughly understood by the whole community. At present, opinions were exceedingly diversified on the subject, even among the members of the same political party, and he saw no prospect of their being united before the close of this Convention, though he trusted they would ere long be so.

While opinions were thus discordant, this Convention could not incorporate into the Constitution, regulations for the minutiae of banking, without endangering the rejection of the work for which they came here. He



had regretted, that after the people had voted to call this Convention, for the great objects which had been agitated for thirty years, a question which had sprung up since the vote on the Convention was taken, had been connected with the proposed measures of this body. He regretted this, because it was calculated to endanger reform, by uniting an entire party on national politics, with the interested and wavering of the other party, against the amendments we might propose; and because the power of the Legislature, over the United States Bank of Pennsylvania, was, he had no doubt, precisely equal to that of this Convention.

Were we to vote for this extraordinary printing, as a sanction of the doctrines of the report? If so, he was not prepared to sanction all of them. There were two classes of political doctors who would regulate the business of individuals, as regarded currency, and both, as he thought, had fallen into errors. The one class would regulate the nation by a great monopoly, like the Bank of England, and that of the United States. Such great engines, however honestly conducted, he thought had been extremely pernicious in their effects; their power to produce fluctuations was too great, and he thought the present commercial difficulties principally caused by them.

Others would abolish paper and return to specie. He could not agree with this class. He would not abolish steam engines, nor any other invention which a portion of the community deemed useful, and wished to employ; but he would compel no man to use them against his will.

He thought it too common for Governments to undertake the regulation of the private business of individuals. They ought to confine themselves, in this regard, principally to the enforcement of contracts, and the punishment of frauds.

Had Governments acted upon these principles, and left banking, like other arts and occupations, open to private competition and improvement, he believed the system would have been more perfect than it is at present. He thought the existing banking system not what it should be; but he did not approve of all the remedies suggested in the report. It proposed to allow banks to be chartered by a vote of two thirds of two successive Legislatures. This was a monopoly principle, and enabled a minority to govern, which was an anti-democratic principle. Some said, let us have a few monopolies, but not many. He (Mr. E.) said, let us have none at all; but if we must have any, the more the better—for the more numerous, the nearer did they approach to no monopoly at all. If banking were unjust and immoral, it should be prohibited altogether. If just or right, then it should be open alike to all, as much as any other business. This system has been practiced many years in Scotland, and was found to be good. He admitted the right of Governments to provide evidence for security given by bankers, for the payment of their notes, but he did not admit their right to compel any man to issue, or not to issue them; to receive, or not to receive them; no more than to direct what food they should eat, or what cloth they should wear.

The report proposed to hold all the stockholders personally liable for all the debts of a bank. He thought a better security could be provided, both for the stockholders and the public. The stockholders might fail, but the security of the New York safety fund was a sure one, and other modes might be devised.

He had his own views of banking, but he did not expect this Convention to go any further at present, than the public were prepared to go. By legislation, or by future amendments, they might hereafter go to any extent, which the people should say was right. He thought it doubtful, whether we could, at present, induce them to go farther than to put some checks on legislative action, such as to prevent them from granting charters for more than a certain term of years, and from granting any not repealable. It was tyrannical for one generation to attempt to impose upon its successors institutions, against their will.

The principle of corporate or joint associations was good. It enabled the many, with small means, to compete with the few who were wealthy. By this method, property had become more equally divided than at the time of the revolution, and it would become still more so, if the monopoly principle of our present corporations were abolished, and all men left free to associate with shares, large or small, at their pleasure.

Mr. MARTIN, of Philadelphia, was, he said, exceedingly at a loss to know why gentlemen had chosen to stamp this report with so many opprobrious epithets. He was puzzled to find any reason for the alarm which the motion to print this document had occasioned. Has there not been a vast deal printed and distributed in favor of the banks. The gentleman from Adams had himself done much in aid of the banks, having often volunteered himself as their champion. Such rash, high-handed measures and views, always had a bad effect. When the Legislature was prepared to charter the Bank of the United States of Pennsylvania, the gentleman from Adams told us that it would have a favorable effect on business generally, and ensure us a sound currency. How had his promises been realised? The same Legislature increased the capital of the Girard Bank under the same delusive promises. The Governor very properly, as he (Mr. M.) thought, vetoed the bill; but the charter was obtained in opposition to the veto, and the president and directors voted twenty thousand dollars to the gentleman through whose efforts it was obtained. Were not the people misled, deluded, and abused by these measures? Was not the gentleman from Adams in error, in holding out such great advantages from an addition to the banking capital in the State? What was now the condition of the Girard Bank? Could they afford douceurs of twenty thousand dollars to their friends? Why, asked Mr. M., must not this report be printed? Are we to have views of only one side of the question? Such a course would have a tendency to draw party lines here, with still greater strictness than we found them when we first assembled.

Mr. HAYHURST said when this question first arose, his course appeared very plain, but now it was not so plain. He was disposed to vote against printing an extra number—and should do so—but not for the reasons which had been assigned. He had no objection to send this report among his constituents, for he had no apprehension that it would prove dangerous and mischievous to them. If he had sufficient strength of mind to resist its influence himself, he was sure they had. The only objection he had to the printing, was, that it would involve an unnecessary expenditure. There were many channels through which it would go to the people, without our aid. In regard to the doctrines of the report, he would not now say that he approved or disapproved them. He was too little versed in such

subjects, to decide upon the character of the document, the moment he had heard it read.

Mr. BAYNE, of Allegheny, had hardly made up his mind, he said, whether to vote for the motion to print or not. If the report had gone further, and had proposed to prohibit all credits from being brought into this State from other States and other countries, he might have had less hesitation on the subject. But the report fell too far short of the design of those who framed it. It should propose to regulate the currency of the whole world. The credit system of Europe should be broken down. He was not sure that the introduction of a metallic currency into this State, might not be productive of some good effects;—it would prevent much brokerage, fraud, and other evils, just now;—but would that regulate the currency of other States of the Union, and of the whole commercial world? And, if it did not, of what particular benefit would it be to us? If the minority who framed this report would concoct a scheme, which would protect us from the credit system of the whole commercial world, he would go for it. He called the attention of gentlemen to the fact, that the derangement which the report treats of did not begin in Philadelphia, but in the deposit banks of the Government in New York. He very much doubted whether, as this was a Convention to revise the Constitution, we had any right to interfere with the ordinary course of legislation at all.

Mr. INGERSOLL said he regretted this debate, not merely because it had been made to turn personally on his humble self, but because he came here with the determination never to be troublesome to any body, nor to make himself a spectacle here for the amusement of others in personal altercations. He had no occasion to say any thing in reply to what had fallen from any member, except the gentleman from Adams (Mr. STEVENS). To him he wished to address a question. That gentleman had used many hard words and rough expressions, which he had endeavored to take a minute of;—some of them were—"raw Irishmen", "imported patriots", "wild bulls", "JACK CADES", "purlieus of polluted cities", &c. Always indisposed for such personal altercations, but always holding himself responsible for any language he might use, he would ask the gentleman from Adams whether, by his remarks, he had intended to charge him with stirring up the people, in mob, as the gentleman called it, against law and order?

Mr. STEVENS: I do not stand here to be catechised by any gentleman. I spoke in plain English, and meant what I said. I spoke of the *document*, and applied my expressions to the document alone. Upon reflection, I am not disposed to withdraw or alter one word that I said in regard to the document, but I made no reference to the gentleman who reported it.

Mr. INGERSOLL: I have not another word to say.

Mr. CLARKE, of Indiana, hoped, he said, that the motion to print would prevail. The number proposed was, he thought, small, and he was surprised at the vehemence with which the motion was resisted. After spending three weeks in exercising our arms, the time had now arrived, perhaps, for hard fighting. We who have been boys in the country, know the effect of throwing a stone into a hornet's nest. We must expect to have our eyes stung out in a minute. Such had been the effect of the report of the gentleman from Philadelphia, in this body. The gentleman

from Franklin, he thought, had imitated the pheasant, and by a great deal of fluttering contrived to draw off the attention of the sportsman while the brood escaped, and the gentleman from Franklin had, by his excellent humor, diverted the attention of the Convention, and prevented any dangerous consequences. The gentleman from Adams could not succeed in creating any alarm by his frightful pictures of JACK CADES and raw Irishmen. We had no such characters here as SHAKSPEARE depicts in his JACK CADE. Like the nursery tales of ghosts and hobgoblins, the gentleman's images would only serve to frighten children; for the people had intelligence enough in these days, to discriminate between truth and error. The gentlemen on the opposite side, had a large portion of the talent of the country, he would not say all the talent; but talent was always to be had, when it is to be rewarded. Surely then, those gentlemen would not fear the influence of this report, when they were well able to bring so powerful an array of talents and learning, and eloquence against its doctrines. If it was full of incendiary doctrines and false reasoning, as had been said, gentlemen could reply to it, and send forth the bane and the antidote together to the people; and "error", as we have been told, "is harmless, while reason is left free to combat it". For his own part, however, he thought the report was full of sound reasoning, and just reflection. It contained the doctrines of wisdom, and the lessons of experience. It was full of truth, well and timely said. The country had suffered deeply and long from the effects of the paper system, and were anxious to be rid of its evils in some proper and suitable way. If an amendment to the Constitution, formed on the principles of this report, should be submitted to them, they will adopt it by an overwhelming majority; and, as any amendments which they do not want, they can reject, there would be no danger of its adoption, unless it fully met their views. He would say to the Anti-Masons--those of them who loved their country better than their party--that this was the time for them to show that they are sincere in their professions--that they are willing to give the people light on all important subjects upon which it may be desired. If the gentleman from Adams, or any other member should make a report from the committee on secret societies, &c., concerning the mysteries and mummeries of Masonry, and the fooleries of Anti-Masonry, he should be in favor of throwing it before the people. On what principle can you, (said Mr. C.) withhold from the people, the information contained in this report? Are you not afraid that, if you refuse to suffer it to be printed, you will give color to the idea that you regard as sacred the rites and mysteries of mammon, and that you are bound to repel any aggression upon its privileges, and to preserve from the touch of rude hands its sacred temple? If you do not fear to suffer the secrets of the prison house to be opened, why will you refuse to print this report? Let it be combated, if you choose, and followed by counter reports, but let these facts and views go to the public. Those doctrines, (said Mr. C.) which are now set forth in this report, are not new nor extraordinary. Seventeen years ago, he, himself, declared them in this hall--when he was considered as a wild man of the mountain; but they had gathered strength with every year's experience of the effects of the paper system, and were now, as he believed, the general opinions of the people. The gentleman from Franklin had objected to the propositions of the report that they did violence to the democratic principles, by putting a

check upon the action of a majority of the Legislature, and the will of the people as by them represented. This was the first time he had ever heard of that gentleman's democracy, and the argument went to destroy all that the gentleman had heretofore urged in support of his favorite principle of requiring a vote of two thirds to convict an officer in case of impeachment. But the fact was, that it was no other than a voluntary restraint assumed by the people, for their own benefit. Instead of being a check upon them, it was a restraint imposed by them on their representatives, and for their own benefit. Of course, the people would not adopt the restriction unless they chose to do it, and supposed it to be necessary for their own protection from legislative imprudence or assumption. He trusted that the Convention would allow the report to be printed, and that the Whigs and Anti-Masons would not fear to let the people read it.

Mr. FULLER said he had withdrawn the motion to print an extra number of the report, not because he had changed his sentiments as to the propriety of printing an extra number, but because he was anxious to save the time of the Convention, by preventing a long debate. But, as the discussion was to continue, and consume the whole day, he should now press that motion, so far as his voice went. He was at all times in favor of letting the people know the truth on every subject. He would never withhold information from them; and this subject was undoubtedly one of the most interesting and important in the public estimation, that has been brought before the Convention.

If any gentleman feared the effect which might be produced by sending this report abroad: if the gentleman from Adams, (Mr. STEVENS) and the gentleman from Franklin, (Mr. CHAMBERS) apprehended that it might exercise a deleterious influence on public opinion, they must have wholly lost sight of the fact, that the people of this Commonwealth are too intelligent to be led into error. Nothing of this kind could mislead or misguide the people. They had already declared their own views on the subject, and they will expect the action of this Convention upon it, before it shall terminate its labors. He would give his vote in favor of printing, and thus to give to the people some evidence that there was a disposition in some portion of the Convention, to act in accordance with the will of the people.

Mr. M'CAHEN modified his proposition, so as to include the printing of the report of the majority, and that of the minority together.

Mr. CRAIG, of Washington, said that it was very apparent there was a disinclination on the part of those opposed to the minority report, to protract this debate, as some five or six gentlemen favorable to it, had continued the debate without an answer from the other side, & if the debate must be continued till the time of adjournment, we might as well give our objections against the printing as not; he should not have risen at this time, but for the circumstance that the gentleman now asks you to print the report of the majority, as well as the minority report. This proposition was gratuitous: being one of the committee that signed the majority report, it was proper for him to say, that no such favor was asked or expected by the majority of that committee; they were contented to let their report lie on your table until it came before the Convention in the usual way. He was opposed to giving a currency to the minority report, which was not claimed by the majority.



The gentleman from Philadelphia (Mr. DORAN) contends that printing an extra number of the minority report does not, in any measure, give it the sanction of this Convention: if that position was correct at first, it cannot be so now, as the gist of the argument has been, whether it ought to have the sanction of this Convention or not, and it is for this the gentlemen contend to have an extra number of copies printed, that the people may receive it with the sanction of the Convention. To illustrate this subject, suppose a gentleman should move to have the speech delivered by the gentleman from Franklin (Mr. DUNLOP) printed, and the Convention should agree to the motion, would not that be giving the sanction of the Convention to the speech? The public would so regard it: the people would believe that we were delighted with it, and where is the difference in principle between the speech and the report? The most material difference is, that the one is in writing and the other was oral.

My friend from Berks, (Mr. KEIM,) and the gentleman from Philadelphia county, both tell us why they wish an extra number of copies to go among the people in the most favorable way. They say that a great calamity has fallen upon the country, occasioned by the increase of banks; they want to inform the people on the subject, by sending out this one-sided report, which directs and points the country to the United States Bank as the source of all our evils. Sir, the act of Pennsylvania chartering the United States Bank, did not increase the number of banks, nor bank capital; it was only a change in the name—no, not even a change of name—it was only making a bank of the United States, a bank of Pennsylvania, with the same stockholders. Mr. C. took a view of the operations of the United States Bank in regulating the currency while it enjoyed the favor of the government, its paper was better than silver or JACKSON gold—any merchant travelling from the western country to our eastern cities, would give his specie for it, and one half or one per cent. into the bargain, rather than run the risk of transporting the silver. So perfect and well regulated was the currency under the management of the bank, that it required but a small premium to transmit funds from any place to any other place in these United States. Mr. M'DUFFIE made an elaborate report to the Senate of the United States, shewing that exchange could be made between any two given points in the Union for one half per cent. But the cry was raised that it oppressed the local banks, and circumscribed their operations. The administration commenced a war against the monster somewhat like the report before you, which is at war with all banks. The war was continued until the bank was driven from the service of the country and prostrated. We had no longer reason to expect the bank to take the responsibility of regulating the currency; it had not the means and could not do it.

Hence the Administration of the General Government adopt the gold and silver policy—the Missouri policy—and what is the result. Your country is raked over to get gold and silver for the Government, and the Government is bankrupt; it cannot pay its debts, and has the people's money; it has broke the banks, and broke itself, for an experiment to establish a gold and silver currency.

Mr. CURLL, of Armstrong, rose to say a few words in favor of the motion to print the minority report, because it was just such a dish as his constituents would wish to dine on, and they would dine on it with a good



appetite. He represented a part of the State which felt a deep interest on this question. There were, indeed, few subjects on which his constituents were so desirous of full and correct information and argument. All the parties in his county, with a very few exceptions, were either Democrats or Anti-Masons—Whigs were scarce—and they united in the honest hope that this body would not rise, until some check or restraint should have been imposed on the power of the Legislature, in regard to the creation of banking corporations. The Legislature had taken a very wide range on this subject, and in the opinion of his constituents, had exercised powers, in granting acts of incorporation, which were not warranted by the Constitution. They had no authority to locate, throughout the country, corporations for the purpose of carrying on speculation and gambling, and establishing a system of moral injustice between man and man. He could say, without fear of contradiction, from his constituents, that they would not be satisfied unless some measures were adopted, restricting the powers of legislation on this all important subject. For this reason, he was in favor of printing the report of the minority, and he had no fear of any bad effect from its publication. He had no apprehension that the people would be raised up to acts of violence; he had no terror of mobs, and he could not but feel somewhat tickled to see the agitation of the gentleman from Adams, (Mr. STEVENS,) who seemed to be alarmed lest his “horned monster” should be turned into a “*Muhle*” He could not tell for what other reason the gentleman should be so decidedly against this able report. Gentlemen, who pretended to be very economical, had voted for a subscription to the Chronicle, and had kept the members laboring all day, to send them off to their constituents, to inform them of all the speeches made in this body, and when such an able document was presented, he was astonished to see them all rise to oppose its printing. He hoped the Convention would not shew an unwillingness to let this report go abroad. If there was any thing in it which did not please the people, they will come forward and say so. They are the sovereign, and want us so to act, as that the Constitution we shall submit to them, may be the palladium of their rights and liberties, on the subject of banking, as well as in all other respects. He wished to know what softer name could be applied to these banking institutions than aristocracy. Had they not the power to sue out a judgment against individuals, by liens on their property, and to destroy the little property they possessed: and was not this power so exercised that while individuals were oppressed to ruin when they failed to meet an engagement, these corporations might refuse to pay their promissory notes, without any legal cognizance being taken of their property? He hoped the Convention would be induced to take some steps towards the correction of these enormous evils, in accordance with the purport of this erudite report. Let us look at the condition of these corporations in this Commonwealth. We see forty nine banks, which have a circulation of about forty-four millions of paper, and about six millions of specie to pay with. Is this a state of things to be tolerated? Is it not time something should be done to relieve the community from the ruinous and demoralising influence of this paper system. He could not believe that the Convention would let this subject pass over, for the fear of distributing this able document among the people. He hoped the document would be printed, and extensively circulated among the people,

Mr. DORAN called for the yeas and nays on the question, and they were ordered accordingly.

The question was then taken on the motion of Mr. M'CAHEN, and decided in the negative by the following vote:

**YEAS**—Messrs. Banks, Barclay, Bell, Bigelow, Bonham, Brown, of Northampton, Brown, of Philadelphia, Butler, Clarke, of Indiana, Cleavinger, Crain, Cummin, Curll, Darrah, Dillinger, Donagan, Donnell, Doran, Farrelly, Fleming, Foulkrod, Fry, Fuller, Gamble, Gearhart, Gilmore, Hamlin, Helffenstein, High, Hyde, Ingersoll, Keim, Kennedy, Krebs, Lyons, Maged, Mann, M'Cahen, Miller, Myers, Nevin, Overfield, Porter, of Northampton, Read, Riter, Ritter, Rogers, Sellers, Scheetz, Shellito, Smyth, Stickel Swetland, Taggart, Weaver, White, Woodward—57.

**NAYS**—Messrs. Agnew, Ayres, Baldwin, Barnitz, Bayne, Biddle, Brown, of Lancaster, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Dunlop, Earle, Forward, Harris, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson, Hout, Jenks, Kerr, Konigmacher, Long, MacLay, M'Call, M'Dowell, M'Sherry, Meredith, Merrill, Merkel, Montgomery, Pennypacker, Pollock, Porter, of Lancaster, Purviance, Reigart, Royer, Russell, Saeger, Scott, Seitzer, Serrill, Sill, Snively, Stevens, Thomas, Todd, Weidman, Young, Sergeant, *President*—68.

The Convention then adjourned.

### WEDNESDAY, MAY 24, 1837.

Mr. PORTER, of Northampton, from the committee on the ninth article, made the following report, which was ordered to be laid on the table, and printed:

The existing Bill of Rights, as it stands, except that the twenty-sixth or last section thereof shall be numbered "27"; and that the following be introduced as "section 26":

"Those who conscientiously scruple to bear arms, shall not be compelled to do so, nor pay an equivalent therefor, except in times of exigency or war".

Mr. PORTER, from the same committee, made the following further report, which was ordered to be laid on the table, and printed:

The committee on the ninth article of the Constitution, to whom were referred the several propositions hereinafter mentioned, beg leave to report that they have had the same under consideration, and have deemed it inexpedient or improper to recommend Constitutional provisions in relation thereto, for the reasons following the same respectively.

No. 17. Submitted by Mr. DARLINGTON, of Chester, instructing this committee "to enquire whether any disqualification for holding office under the Commonwealth, should attach to any person on account of his having been concerned in any duel, either as principal or second, or of having been convicted of any other crime or misdemeanor". This is believed to be a fit subject for legislation, upon which action has been had whether to sufficient extent or not, it is not material now to enquire, or if more be needed, it is entirely within the power of the Legislature, but does not, in the judgment of the committee, come within the principles which should be embraced in the Constitution.

No. 16. Submitted by Mr. HIESTER, of Lancaster, instructing this

committee to enquire into the expediency of amending the ninth article as follows, viz:

I. That the Legislature shall not authorise lotteries for any purpose whatever.

II. That the Legislature shall provide by law for the election or appointment of all officers not specified in the Constitution as amended.

As to the first of these provisions, the committee deem it inexpedient to insert it in the Constitution. Lotteries are an undoubted evil and have been abolishhd and prohibited, both by the good sense of the community and the enactments of the Legislature, and little, if any danger, need be apprehended of their re-establishment. As it regards the second of these propositions, the committee do not think it is within their province. The grants of power and authority belong to other committees. The restrictions on those powers and prohibitions of encroachment on the rights of citizens, belong to this committee.

No. 39. Submitted by Mr. MANN, of Montgomery, instructing this committee "to enquire into the expediency of so amending the sixth section so that in all cases of trial by jury (except capital punishment,) it shall be competent for two thirds or three fourths to give a verdict". Such a provision the committee conceive it would be improper to introduce. The trial by jury has been matured and established by the wisdom of ages, and we should fear that such an innovation upon it would be fraught with dangerous, if not destructive consequences.

No. 43. Submitted by Mr. KEIM, of Berks, instructing this committee "to consider the expediency of so amending the Constitution, as to allow forever in this State the free exercise and enjoyment of religious profession and worship to all mankind; but that the liberty of conscience hereby secured, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of this State". The committee deemed it inexpedient to adopt any further provision on this subject, than is contained in the existing Bill of Rights, which allows full freedom of religious opinion to all, and denies the right of any human authority to control or interfere with the right of conscience, and prohibits any preference from ever being given by law to any religious establishments or modes of worship, and prohibits the Legislature from ever disqualifying persons from holding office or places of trust or profit under the Commonwealth on account of their religious sentiments, who acknowledge the being of a God and a future state of rewards and punishments.

No. 54. Submitted by Mr. FARRELLY, of Crawford, instructing this committee to enquire into the expediency of striking out the ninth article, and substituting therefor the following: "the powers not delegated by this Constitution are retained by the people".

The committee believe that this proposition ought not to be adopted, as the present Bill of Rights is necessary.

No. 55. Submitted by Mr. CRUM, of Huntingdon, instructing this committee "to enquire into the expediency of a Constitutional provision requiring the observance of the Sabbath day".

The committee believe it inexpedient to report any provision relative thereto, as it is a subject peculiarly for legislative action, and is already provided for by law.

Mr. PORTER, also, presented the following report, of the minority of

the same committee, which was ordered to be laid on the table, and printed. :

The undersigned, a minority of the committee on the ninth article of the Constitution, submit the following as provisions, which in their judgment, should be inserted in the Bill of Rights in addition to those reported by the committee, to be called sections twenty-seven and twenty-eight and the section reported twenty-seven to be numbered thirty.

**SECT. 27.** No perpetual charter of incorporation, except for religious, charitable or literary purposes, shall be granted, nor shall any charter for other purposes exceed the duration of                      years.

**SECT. 28.** No charter of incorporation for banking purposes, nor for dealing in money, stocks, securities or paper credits, shall exceed the duration of                      years, nor shall the same be granted where the capital authorised exceeds                      dollars, without the concurrence of two successive Legislatures.

**SECT. 29.** The Legislature shall have no power to combine or unite in any one bill or act, any two or more distinct subjects or objects of legislation, or any two or more distinct appropriations, or appropriations to distinct or different objects, except appropriations to works exclusively belonging to and carried on by the Commonwealth; and the object or subject matter of each bill or act shall be distinctly stated in the title thereof.

J. M. PORTER,  
R. M. CRAIN,  
HENRY SCHEETZ.

The Convention then proceeded to the order of the day, being the motion to re-consider the resolution, authorising the purchase of 2,700 copies of the Daily Chronicle, postponed from the 15th inst.

The question being on considering the motion,

Mr. SMYTH, of Centre, asked for the ayes and noes.

The question was then taken and decided in the negative, ayes 44, noes 75, the vote being as follows :

**YEAS**—Messrs. Banks, Barclay, Barnitz, Bigelow, Bonham, Brown, of Northampton, Clarke, of Indiana, Cleavinger, Crain, Cummin, Curll, Darrah, Dillinger, Donagan, Doran, Foulkrod, Fry, Fuller, Gamble, Grenell, High, Hyde, Kennedy, Krebs, Magee, Mann, M'Cahen, Miller, Myers, Overfield, Read, Ritter, Rogers, Sellers, Seltzer, Scheetz, Shellito, Smyth, Snively, Sterigere, Stickel, Swetland, Weaver, White—44.

**NAYES**—Messrs. Ayres, Baldwin, Barndollar, Bayne, Bell, Biddle, Brown, of Lancaster, Brown, of Philadelphia, Butler, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cline, Coates, Cochran, Cope, Cox, Crum, Cunningham, Darlington, Denny, Dickey, Dickerson, Donnell, Dunlop, Earle, Farrelly, Fleming, Forward, Hamlin, Harris, Hayhurst, Helffenstein, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, Hopkinson Houpt, Ingersoll, Jenks, Kerr, Lyons, Maclay, M'Dowell, M'Sherry, Meredith, Merrill, Montgomery, Nevin, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Purviance, Reigart, Riter, Royer, Russell, Saeger, Scott, Serrill, Sill, Taggart, Thomas, Todd, Weidman, Woodward, Young, Sergeant, *President*—75.

On motion of Mr. CHAMBERS, the Convention proceeded to consider the report of the special committee on the 7th and 30th rules.

The report having been read a second time as follows :

ADDITIONAL OR EXPLANATORY RULE.

If the committees report that no amendment is necessary in an article,

the report shall be considered first in committee of the whole and again on second reading. Amendments may be offered either in committee of the whole or on second reading, whether the committees shall have reported amendments or not, and if no amendment shall be agreed to in committee of the whole or on second reading, the existing constitutional provision shall stand.

Mr. STERIGERE, of Montgomery, said that the report of the committee, as he understood it, did not change the existing rules. The rule required that the "committees shall report the several articles of the Constitution with or without amendments", when no amendments are reported, the committee of the whole act only on the reports, not on amendments. The better course would be to have all the different articles before the committee, and after the whole should have been gone through, to report them together. It was necessary that the course should be distinctly laid down, as the President had very properly said, he could put nothing into the rule which was not there. He wished to amend the rule.

The question being on the motion to amend the report, by striking out all after the word "report", and inserting in lieu thereof the following :

*Resolved*, That the Constitution be referred to the committee of the whole for the purpose of amendment, in which each article shall be considered in such order as the committee may direct.

*Resolved*, That when any article of the Constitution shall be taken up in committee of the whole, the amendments which may have been recommended thereto by any committee, and such other amendments as may be offered by any delegate shall be considered and decided therein, after which such article and the amendments thereto, which may be agreed upon in committee of the whole, shall be reported to the Convention, to be considered on second reading, after all the articles of the Constitution shall have been considered in committee of the whole. The same order shall be taken on all new articles proposed to the Constitution.

*Resolved*, That when any article of the Constitution shall be taken up in Convention on second reading, the amendments thereto which may have been agreed upon in committee of the whole, and such other amendments as may be then offered by any delegate, shall be considered and decided on, and the amendments to such article which may be agreed upon on second reading (if any) shall be engrossed for a third reading, at such time as the Convention may direct.

Mr. CHAMBERS stated that the rule which had been reported as an explanatory rule, was more simple and more consistent with the other rules, than the amendment would be. The gentleman from Montgomery said he could not perceive that the report changed the existing rules. He (Mr. C.) did not say that it does, but it adopted the construction which had been put upon the existing rules by the President of the Convention. As far as regards the facilitating of the public business, the report seemed likely to answer the purpose. The articles are to be reported by the various committees, with or without amendment. If a committee report without amendment, the article is still open to amendment in committee of the whole, or on the second reading. This is the proper course, and thus after one article has been disposed of, another is taken up. So much as to that matter. But the gentleman proposed that the Convention should resolve itself into committee of the whole on the whole Constitution.

Mr. STERIGERE : No, sir.

Mr. CHAMBERS : So I understood. What says the resolution of the

gentleman ? [Here Mr. CHAMBERS read the part of the amendment which provides, "That the Constitution be referred to the committee of the whole", &c.] What then is to be referred to the committee of the whole ? The Constitution. And what would be the order of business ? That the Constitution should be taken up, article by article. So that the Constitution would have to be referred and considered in such order as the committee might determine. It was to obviate the inconvenience of such a course that the various articles in the Constitution had been divided, for the purpose of distinct consideration. It would be time enough after the subject had been discussed, after there had been an interchange of sentiment, and after there was full understanding of all the amendments proposed, to take up the whole Constitution together. But the course now recommended by the gentleman, would not tend to facilitate the public business at present. The best way would be to go on, as proposed by the rule.

Mr. MANN said he had understood the sense of the Convention to be somewhat different from what had been reported by the committee. The opinion given by the President, was the same as the report. But there had existed some dissatisfaction on the subject, especially with the gentleman from Philadelphia county, because a third reading of the article was precluded. The rule, according to the construction of the President, would preclude any alterations from being made under any circumstances, on a third reading. This seemed to have been pretty well understood by the Convention. He thought that the President had taken the right view of the rule ; and he had supposed that it was recommitted, in order that it might be made to conform to the opinion of the majority, and that this was done by common consent. The gentleman from Philadelphia had said that the President was correct in his construction, and that it would be well to amend the rule so as to give an opportunity to amend on the third reading, by going into committee of the whole. If this rule, previously precluded from such opportunity, he should be in favor of the motion submitted by his colleague, (Mr. STERIGERE) and he thought it was the course desired by the Convention. He did not know how others understood it ; but he was somewhat surprised to see a report different from what appeared to be the construction of the Convention.

Mr. PORTER, of Northampton, said a few words in favor of the rule, as reported by the committee. He thought the nearer our rules assimilated to those of the Legislature, the better. The rule was perfectly simple, plain, and obvious in its meaning.

Mr. MEREDITH, of Philadelphia, had expected that this rule would pass without objection, and he was sorry to find he had been mistaken. He was sorry the gentleman from Montgomery had supposed that the committee had not gone according to the wish of the Convention. There appeared to be a diversity of opinion ; some gentlemen thought the construction given to the rule was a doubtful one, and others wished it to be made so plain that there could be no misunderstanding. The gentleman from Northampton had given attention to the subject, as well as the committee, and they had supposed an explanatory rule would answer the purpose. A reference would be made of the several articles of the committee of the whole, and then to be read a second time. Every gentleman was invited to offer any amendment, either in the Convention or in com-



mittee of the whole. The committee thought that if an article passed the standing committee, and the committee of the whole without amendment, it might be taken for granted that there was no objection to it, and that there could be no occasion for a third reading; the third reading being a stage, when, according to parliamentary rule, no amendments could be made. He said nothing as to the proposition of the gentleman from Montgomery. The motion to commit was a privileged question, like the motion to postpone. Any gentleman at the last stage might move to recommit or to postpone, both being privileged questions, provided for in the rule which refers to privileged questions. If an article was amended, it would go to a third reading; but if there was no amendment previous to the second reading, it was to be considered as finally disposed of. He hoped the Convention would agree to the report. He did not know that there was any material difference between the views of the gentleman from Montgomery, (Mr. MANN) and his own. The rule, he thought, would be found a convenient one.

Mr. MANN would only say that from the decision of the President the other day, and what he had understood since, he had concluded that the question was to be considered settled, if there was no amendment of an article before the second reading, it was thus settled without controversy, and nothing more was to be done. But if, as construed by gentlemen, the motions to recommit and postpone were privileged questions, and thus the Convention could at any time go into committee, or postpone, his objection was mostly removed. Perhaps he had misunderstood, but he believed that the Convention could not go into committee of the whole, without a special motion, which would be out of order.

Mr. MEREDITH replied, he supposed there could be no difficulty in settling that question, under the 17th rule.

The PRESIDENT said he would take the occasion to state in what manner the question originated. There was no question of order depending before the Convention at the time. Having attentively considered the operation of the two rules reported by the committee on rules, it struck the Chair that they were subject to the construction which any member might think proper and desire to put upon them. And, to prevent the question from coming up suddenly and by surprise—when a case should actually occur—he thought it best to avail himself of the present opportunity to state to the Convention, what, according to his views, would be the operation of the rules. As he had said, the other day, when a proposition to amend was negatived at the second reading, there was nothing for a third reading. That, according to the rules, amendments were to undergo a second and a third reading. But, if the amendment were negatived, or if the committee reported no amendment, and the report was agreed to, there was nothing to be read a third time, inasmuch as the rule requires only the third reading of the amendment. And, therefore, as respects the course of proceeding before the Convention, that matter would, in the cases stated, be at an end. But his understanding was, that there might be many other ways of proceeding. An amendment might be open to consideration, by introducing a resolution, or through some other means. If, however, the whole subject reported by a committee was finally ended, there was nothing for a third reading. And the question arising would be simply this: whether, if there was no amendment

offered, or agreed to, the Convention were to read the article of the Constitution a third time. He was of opinion they were not.

With regard to a report recommending no amendments, being read a third time—that could not be done, for it would be contrary to the usual course of legislation. But there might be a recommitment, which takes the matter back from the Convention, and puts it again in the power of the committee. Or, the subject might be committed, with special instructions.

The CHAIR was unwilling to state any views as to what the rule ought to be, and contented himself with stating merely his views of it as it is.

Mr. MANN, of Montgomery, understood the President to say that as the rule stood an article could not be read a third time. Now, his (Mr. M's.) idea was, that the rule was made in order to effect that purpose.—One gentleman was dissatisfied that an opportunity should not be given to make amendments on the third reading. He (Mr. M.) conceived that that could not be done, unless by committing for a special purpose, or for general amendment. He had thought that the articles would always be read a third time as was done in respect to bills. However, he should throw no obstacle in the way, but would give his assent to what the Convention might deem right.

Mr. STERIGERE had only a word to say in reply to what had fallen from gentlemen on the other side. He had either very much mistaken the language of the reported rule, or else gentlemen opposite were not aware of its true operation.—The Chairman of the committee said it did not alter the rule. Now, if that was the case, what was the use of reporting an explanatory rule? He would read the rule. Mr. S. then read it as follows :

“If the committee report that no amendment is necessary in an article, the report shall be considered first in committee of the whole, and again on second reading. Amendments may be offered either in committee of the whole, or on second reading, whether the committee shall have reported amendments or not, and if no amendment shall be agreed to in committee of the whole, or on second reading, the existing Constitutional provision shall stand”.

Now, the meaning of this was clear and explicit—that if the committee of the whole negatived an amendment there was an end to the matter.—That was the language of the amendment. His proposition was that the Constitution be referred to the committee of the whole, in order that they might be able to act understandingly on each amendment. It had been said by the gentleman from Northampton that the rule was simple and obvious in its meaning. But he (Mr. S.) confessed that he could not discover that it was so. He felt certain that the proposition which he had made must be simple and plain to every one, for it afforded an opportunity to every gentleman in committee of the whole to offer amendments to every article he might think proper. And, also, when the article came up in the Convention for a second reading—amendments could be offered.

Mr. CLARKE, of Indiana, asked for the reading of the explanatory rule.

[The rule was here read.]

Mr. READ observed that what had been called a puzzle in relation to the course of our proceedings, had arisen from a supposed distinction, when there was no distinction in fact—a distinction without a difference,

The idea had been kept up from that time to this, that there was a real substantive difference, first, between amendments to the Constitution; second, an amended Constitution; and third, a new Constitution. The distinction between these seemed to have been the prolific cause of the puzzle in which gentlemen had been involved. The proposition of the gentleman from Montgomery proposed to do what? To undo all that had been done by the standing committees—to entirely defeat the purposes of our action upon the Constitution. What then was the regular, easy, and proper mode of proceeding? Why, it was to take up the amendments (if there were any) proposed by the committee to any article which they might report, and act upon them. With regard to the reported rule, there was only one objection to it, and that was not a very serious one, but still it was an objection. It went to limit, on this most important of all subjects, for our deliberation—if he understood it—the right to commit on a third reading, and would, therefore, seem to conflict with another rule adopted, which said that a motion to commit was a privileged motion. Now, this was an objection, but of a far less important character than the amendment proposed by the gentleman from Montgomery. He maintained that the effect of the gentleman's amendment would be to cut off at one fell swoop the proposed amendments of the standing committees.

Mr. STERIGERE explained, that so far from his motion having a tendency to cut off amendments, it would give a greater opportunity to propose them.

Mr. READ said that the amendment of the gentleman from Montgomery would, if adopted, lead us into inextricable confusion and difficulty. It seemed to him that the Convention had better negative the amendment, because it was even more exceptionable than the rule, and then it would be as well to negative that also.

Mr. CUNNINGHAM felt satisfied, from all that he had heard, that it would be better to adopt the rule of the committee than the amendment proposed by the gentleman from Montgomery. Some days ago he had drawn up a rule that he thought would meet with the concurrence of the Convention; but, before he had had an opportunity of presenting it, the gentleman from Philadelphia (Mr. MEREDITH) had given such an explanation in regard to the operation of the rule as to supersede the necessity of offering it. (Here Mr. C. read the resolution which it had been his intention to offer). He concurred in the report of the committee, and thought the rule which they had reported better than the amendment of the gentleman from Montgomery. He had no doubt that it would simplify the business and bring each article distinctly before the Convention.

The question being taken on the motion of Mr. STERIGERE to amend, it was decided in the negative.

Mr CLARKE, of Indiana, expressed himself quite satisfied with the explanation given by the Chairman of the committee, from which the rules were reported, and the gentleman from the city, (Mr. MEREDITH). There was a little ambiguity in the third line, which might be avoided, and he therefore moved to insert the words, "to the article", after the word "amendment".

Mr. PORTER, of Northampton, suggested that this would cripple the committee of the whole and prevent amendments to the report,

Mr. CLARKE, of Indiana, stated that the reason why he had offered the amendment was, because he was in some doubt as to whether the *whole* article was before the committee of the whole—for if the report of the committee included the whole article, then, perhaps, the amendment which he proposed was unnecessary. When the subject was spoken of before, there seemed to be some difficulty as to the proper course of proceeding, arising from the opinions entertained by those gentlemen who were conversant with the rules of Congress, and those who understood only the rules which govern the House of Representatives of Pennsylvania. Gentlemen who had the honor of a seat at Washington seemed to have a different idea in regard to the second reading of bills, than was entertained by gentlemen who were acquainted with the course adopted in this State. He believed that it was the practice in Congress to read a bill a first time, then to go into committee of the whole on the second reading, and order it to be read a third time. But, in the House of Representatives of Pennsylvania the practice was—that, when a committee reported a bill, or should it come up in any other mode, it was read by its title only, which was called a first reading, and then the House resolved itself into a committee of the whole.

He was satisfied with the explanation of the gentleman from Philadelphia, and would withdraw his amendment if the gentleman should think it was not necessary to secure the reading of the whole article.

Mr. MEREDITH did not think the amendment at all necessary; but he would leave it entirely to the discretion of the gentleman from Indiana to introduce it, or not.

Mr. DICKEY, of Beaver, observed that, in his opinion, the amendment was not necessary, particularly, as he understood the explanatory rule.

Mr. CLARKE, of Indiana, said that the various explanations which he had heard were satisfactory to him. He would, therefore, withdraw his amendment.

The question being then taken on the adoption of the rule, it was agreed to.

#### FOURTH ARTICLE.

The Convention resolved itself into committee of the whole, Mr. DENNY in the Chair, and proceeded to the consideration of the fourth article.

The question pending, being on the motion of Mr. DICKEY to amend the report, by striking out “majority” and inserting “with the concurrence of two thirds”.

Mr. INGERSOLL said that he deemed it a duty to speak at this time, without reserve, and somewhat at large, unwilling as he was to do so frequently. He had no intention to trouble the committee, but would have given a silent negative to the proposed article, had not gentlemen of high standing thought this a fit occasion to send abroad opinions against the powers of this Convention, such as had fallen from his friend from the city. (Mr. CHAUNCEY) and against its popularity, such as those uttered by the presiding officer, (Mr. SERGEANT) and the respectable Judge (Mr. HOPKINSON). Mr. I. differed, with deference, altogether from the latter member in considering a general view of the Constitution out of place on the pending question. On the contrary, he did not see how justice could be done to any parts of the Constitution without considering it as a whole. If we were making a man, instead of a Government, would it be right to dwell

on a finger or a toe, first, without reference to the whole body? The questions by what authority we are here, and what we are authorised to do, are of primary importance as indispensable preliminaries. It had been denied that a majority of the people willed this Convention, because forty thousand had not voted on the question; they were at least indifferent to it, said the learned Judge. If so, (said Mr. I.) that is proof of the necessity of reform; for if so many people are more anxious to vote for a Governor than a Constitution, it shows that patronage, influence, and office are more operative than that affection for Government which ought to prevail. Of the eight Governors under the present Constitution, at least three were elected pledged to reform. But they discovered, after election, that their several administrations were not the right time for it. So that the question of reform had always been submitted to the people with the whole influence of executive wish and patronage against it. Numbers favorable to moderate reform were fearful of any change least there should be too much, and thus the fair sense of the State had never been taken by the votes. The respectable member from Lancaster, (Mr. REIGART) with his candid concession of the powers, had coupled deprecation of that radicalism, to which he thought the people of Pennsylvania are averse; and it might be that the mere word had fallen into reproach. But the thing was nothing more than American republicanism, in fact, or a preference for perfectly popular government. After the very conclusive argument of the member from Luzerne, (Mr. WOODWARD) Mr. I. did not feel himself at liberty, however, to pursue this part of the discussion. It had been thrown in by his friend from the city, (Mr. CHAUNCEY) who had since explained away his first intimations. That gentleman will take nothing but the voice of the people as indicative of their will; and he is right. But what speaks their voice? Surely any majority, whether more or less. Would the learned Judge hold the judgment of a court, determining some great constitutional doctrine, to be invalidated by its being the judgment of a bare majority of the court? American descendants of that English stock, which achieved the reform of 1688, that of 1775, the Constitutions of 1776 and 1787, with the power of making government, when and as they pleased, in the frontispiece of six and twenty Constitutions of six and twenty States, could hardly question the power of this Convention: and as to majority, we are organized here by the majority of a single vote; yet who denies its authenticity?

The debated position seemed to be whether an act of the Legislature can restrain us as some gentlemen contended that it can. But suppose the city of Philadelphia had elected JAMES ROSS, of Allegheny, a delegate (and Mr. I. said it had always been his beau ideal of this Convention that Mr. Ross should have been its President,) and the county of Philadelphia going still further, had elected ALBERT GALLATIN, of New York, a delegate, could it be said that the act of Assembly, which localises elections would have been sufficient to prevent these eminent survivors of the Convention of '87 from affording the people the advantages of their wisdom? Mr. I. put a still stronger illustration: Suppose, that the several gentlemen who have successively declared their preference for the Constitution as it is, without change, to any reform that can be made, together with the whole sixty-seven whose union in majority organised this Convention, should determine to adjourn it *sine die*, have it so entered on the journal, and then



retire—go home. Might not we of the minority of sixty-six, the radical minority, if gentlemen choose, remain, reform the Constitution, and submit it to the people for adoption? And if ratified by them, would not such Constitution be the legitimate Government of the State?

The power to make radical changes, although denied in argument, and the wisdom or policy of it (which are convertible terms) have been put beyond doubt, however by the acts of those who question them in debate. I have no doubt, (said Mr. I.) that of the 200,000 electors of Pennsylvania 195,000 acknowledges the defects of the present Constitution. And that this Convention is unanimous for change no longer admits of a doubt; radical change; change in the whole system of that most important branch, the judiciary, since a committee of learned lawyers, headed by a venerable Judge, have reported a thorough reform of that department: magistrates to be elected by the counties, instead of being appointed by the Governor, for a term of five years instead of for life. This is the most radical change that can be. It goes as far in principle as probably any of us contemplate. The inferior magistracy exercise a more extensive jurisdiction, both civil and criminal, much more affecting the interests of the mass of the community, than the higher courts. And when so learned and respectable a committee of professional gentlemen lead the way by a report reforming that judicial system and tenure altogether, it would be wasting time to enquire whether we are resolved on reform. We are all reformers here at present, and the only question that can arise will be to what extent, or how radical, these reforms shall be. For my part, (said Mr. I.) I desire no wild, visionary, rash changes: nor more than well considered, temperate and acceptable improvements. After such a report as that from the judiciary committee, we, who are called radicals, have only to follow in the wake of the learned, cautious and judicious introducers of such reform.

It being agreed that we have the power, and also that the power should be exercised, let us see what those changes ought to be. We are met at the very threshold by a feeling of natural and laudable reverence for what is ancient—which is always venerable, and, as it were, sacred. This emotion is imbibed with a mother's milk, inculcated by religion, and the instinct of every stage of being. No one feels it more than I do. No one desires more to preserve the feeling inviolate. An old church, not merely the form of worship, but the mere building, an old government, an old man, an old family, an old tree—whatever is old is venerable, and ought to be. The scripture says that those who treat old age irreverently, ravens shall pluck their eyes out. Not only human, but inanimate objects, universally enjoy this reverence. An English writer has well said that he prefers the oak which has weathered centuries of storms, to those weeds of wildness which are the promise of desolation. Strongly impressed with these natural sentiments, I acknowledge that I long resisted the reasons for reforming the Constitution, and did not yield to them till experience proved them beyond question. I have frequently and freely conferred with gentlemen of the bar, men of the highest standing and best opportunities; and I declare that I never met with one, no, not one, who did not agree that useful changes might be introduced, and that the present Constitution is imperfect. A highly distinguished friend, whom I will not name, a person much honored by this State, not a professional man, told me long before I could



be brought to think so, that our attempt at the English judiciary had proved a total failure. Every considerate and well informed man I ever conferred with, agreed that reform would be beneficial.

But all the reforms proposed are sanctioned by antiquity, and are an endeavor to purge our system of Government of principles which have been interpolated into it, as I shall try to shew. Brought gradually, reluctantly, and advisedly, to this judgment, and satisfied that it is right, I shall now endeavor, in the first place, to vindicate it from the charge of instability, and convince those who impute it to reformers that they are changers, that we are the restorers of the original and fundamental institutions of this Commonwealth. I would not alter a word of the Constitution without anxious deliberation; but I will show that they who made the experiment of it, and it was a mere experiment, radically altered the first principles of our State Government, to which this Convention is to restore it. It has been said that the people of Pennsylvania are not radicals. I am not certain what is meant by radicals. There are persons in Europe called radicals, who are not in good repute; but in this country, a radical is simply an American republican. The reason why the term has passed into reproach abroad is—and it is not confined to the lower classes, for I could mention some well known and eminent names to whom it applies—that there when men break loose from their institutions, whether of politics or religion, they are apt to rush into the opposite extremes, and become infidels and jacobins.

One hundred and fifty-five years ago, on the 20th of the month, *vulgarly*, called April, 1682—as the founder of Pennsylvania called it—by a stretch of radicalism, in that mere word, far beyond what any of us will venture indeed—that founder set his hand and seal to what he called a *charter of liberties*. No such thing had ever been seen before. The world was then five thousand years old, and our holy religion sixteen hundred, the republics of Greece and Rome and of modern Italy had flourished; liberty had been; but a *charter* of liberties was altogether new, and unknown. It was the bold, radical and resolved declaration of a man who was no lawyer, not even a statesman, practically—though he founded a republic on wiser principles, it has been said by one of the founders of this republic, than those of SOLON or LYCURGUS—but a Quaker preacher. He established, all at once, and forever, these fundamental principles of Government.

Gentlemen will find them on the first pages of a book in all our hands containing the charter and frames of Government of the provinces of Pennsylvania. I have the pages and sections of the constitution, to refer any member to, if desirous of correcting my statement. These principles are,

FIRST. Annual elections and almost universal suffrage on short residence.

SECOND. Vote by ballot.

THIRD. Election, not appointment of judicial officers; first, for one year; afterwards, during good behaviour.

FOURTH. Numerous legislators; first, two hundred; afterwards, five hundred.

FIFTH. Cheap and simple justice: every man allowed to plead his own cause, without a lawyer, pleadings in the English language, and short.

SIXTH. Lands liable for debts.

SEVENTH. Registration of conveyances.

EIGHTH. Not only rotation in all offices ; but no plurality of offices.

NINTH. Above all, religious liberty and real toleration.

This was before the English revolution of 1688 ; when, except by the *habeas corpus* act, liberty was almost unknown. I pray the attention of all present while I read the affecting terms in which WILLIAM PENN, the Quaker preacher, established that most radical of all reforms, to which civil Government is nothing in comparison—religious liberty.

“FIRST. Because no people can be truly happy, though under the greatest enjoyment of civil liberties, if abridged of the freedom of their consciences, as to their religious profession and worship : and Almighty God being the only Lord of conscience, father of lights and spirits, and the author as well as object of all divine knowledge, faith and worship, who only doth enlighten the mind, and persuade and convince the understandings of people, I do hereby grant and declare, that no person or persons, inhabiting in this province or territories, who shall confess and acknowledge one Almighty God, the creator, upholder and ruler of the world, and profess him or themselves obliged to live quietly under the civil government, shall be in any case molested or prejudiced in his or their person or estate, because of his or their conscientious persuasion or practice, nor be compelled to frequent or maintain any religious worship-place, or ministry, contrary to his or their mind, or to do or suffer any other act or thing, contrary to their religious persuasion.”

What must the lawyers and clergy of that day have said of this doctrine ? What a radical, jacobin, agrarian, leveller, democrat, deist, atheist, and infidel he was, in their feelings, compared with the most radical of all the democrats of this body ! There was, I say again, more hardy radicalism in stigmatising, as the quaker preacher did, the month of April as *vulgarily*, so called, than in all we dare to do—any of us. Not only state, but church *uprooted*, (to use a word of the member from Lancaster, Mr. REIGART,) and, as to reverence for antiquity, let those who feel it, look up beyond our modern Constitution, to the good old Constitution of that charter of liberties, which preceded the modern change more than a century ; and they will see what the fountains of our polity are. No :—Reformers are they who truly reverence the wisdom of the former time, and deprecate experimental changes of it. The learned and venerable Judge, (Mr. HOPKINSON) spoke of the present Constitution with a sort of parental or kindred regard : he was present at its birth, saw it baptised, and had lived in happiness with it 47 years, wherefore it must be good. But there was a Constitution much older, and of much purer self government, which he was not old enough to remember.

All we are doing now, is mere child's play, (with the exception of the *habeas corpus* act) in comparison with institutions at one issue, which struck out all we desire to restore, and more, much more, annual elections ; universal suffrage ; election magistracies ; voting by ballot ; pleadings in English, and religious liberty ;—These are what we poor reformers and radicals here stand up for, and ask of you, and that is all. In regard to the antiquity of our principles, and their stability, we stand on the firmest, broadest and best ground.

These principles continued to be the basis of our government, for about

ninety years, until the year 1776, and during the whole of the intervening period, as every one knows, there was a struggle between the people and the crown; during much of which time, the champion of the people was the founder of our second constitution. He was not a lawyer, but a printer; his name was BENJAMIN FRANKLIN—fifty years of his life, a champion of freedom. If we look at the second Constitution of Pennsylvania, we shall find his the first name among the signers. Mr. INGERSOLL called the attention of all present, to the fact, that from the city of Philadelphia, there are now six out of nine, and out of eleven from the county, three lawyers, while of sixteen delegates from the city and county of Philadelphia when the Constitution of '76 was framed, there was not one lawyer, if he mistook not.

In regard to the proposition directly before the committee, Mr. I. said, there were probably very few who would vote to sustain the report, changing the senatorial majority from two thirds to a bare majority. Much had been said against, and scarcely any thing for it; yet (said Mr. I.) I shall vote for it, if I stand alone. I shall do so, because as it stands in the present Constitution, it is a radical change of the old rule, established by *all* prior Constitutions, that of our own State, that of the United States and that of England; an innovation as dangerously wrong, as it has proved utterly worthless. By the 22d article of the Constitution of '76, every officer of state, whether Judicial or Executive, was liable to impeachment, either when in office, or after resignation or removal, for *mal-administration*; so that all official misconduct was punishable, at all times, on conviction by a majority of a small body of Judges. The Constitution of the United States requires two thirds; yet, at any rate, punishes all high crimes as well as misdemeanors, as does the English Constitution; while our Constitution, shall I say, cunningly, confines the power of punishment to mere *misdemeanors*, and those *in office*. By our Constitution, called matchless, a Chief Justice may murder the presiding officer of this Convention, while in public session, and yet be punishable by impeachment; he cannot be reached by that arm. He may be a drunkard, gambler, vicious and degraded to the lowest stage of despicable immorality; and yet the annals of this capitol, of this neighborhood, a member from the city now present, who was a member of Assembly, can bear witness that such deplorable misconduct in a Judge is not impeachable. I am, therefore, for reforming this idle and delusive part of the Constitution altogether.

The Constitution of Pennsylvania has undergone a radical change, through modern innovation. If you will restore *mal-administration*, I may vote for the two thirds' principles. But as long as the word misdemeanor is retained, I will vote for a majority. It is now mere *brutum fulmen*. We do not find mere misdemeanor standing alone in any other State Constitution. In that of Virginia, the terms are *mal-administration* and others. A jury of the neighbors is summoned to decide on the facts and it is then for the Senate to say, whether the accused is guilty.—The clause as it stands, is not only an innovation but a mere experiment, and I wish to restore the former rational provision, to return to what is practical, and what I believe to be best.

The present Constitution was undoubtedly made by great men. Do not suppose that I speak in derogation of their wisdom, when I venture

to assert that this Constitution was made not only by lawyers but by an English lawyer. This Constitution was in fact made by Sir WILLIAM BLACKSTONE, a Judge of the English Court of Common Pleas. Look at the first signers to it, JAMES WILSON, THOMAS M'KEAN, WM. LEWIS, JAMES ROSS, CHARLES SMITH, &c. and other great lawyers of the same high class, for whom he felt the utmost respect, but whom he might, without impropriety, call the apprentices of Judge BLACKSTONE. Any one may see in that Constitution a miniature edition of the British Constitution, as most attractively painted at large by BLACKSTONE, divested of what would be altogether unfit. It was a mere trial of a form of government. Its framers were men of great learning and wisdom; but the youngest member of this body *knows* practically, experimentally more than the united wisdom of those who formed that Constitution. That Constitution was an experiment. It has been tried half a century, and has failed in some things. We know from experience, the best of teachers, what they who framed it only thought and hoped. Those great men were familiar with history, conversant with all the principles of government, but without experience of it. It was their object to make a government as near the British Constitution as possible, without monarchy and aristocracy. The Constitution of the United States, the adopted model of ours, would have been still nearer to the British model, had it not been prevented by BENJAMIN FRANKLIN, JAMES MADISON, the grandfather of the young gentleman from the county, (PIERCE BUTLER,) and others who concurred in sentiment with them. They thought the Constitution British enough, as it now is. But we here have the benefits of fifty years experience, under the best of maxims—live and learn. We are therefore wiser, in our generation, than the founders of this Constitution. We have seen the experiment worked out. Time, the greatest of all innovators, has taught us.

In regard to the Judiciary, said (Mr. INGERSOLL,) I will vote for any thing to strengthen that weak department; but I am painfully convinced that it was a mistake to copy so closely the British model. With proper feeling for men, I contemplate the Judiciary in the abstract, with a reverence transcending all personal eulogy. I look on the Judiciary almost as an emanation from the Deity. The Judge near me, not many weeks ago consigned to an ignominious and shocking death, a fellow being;—there is nothing, therefore, that I can think of a Judge equalling the transcendent reverence I feel for his office. But I am satisfied, most painfully so, that the Judiciary, as I was told by the highly respectable and experienced farmer, to whom I before alluded, has proved a failure. What has been done is wrong; and we have no option, but an experiment of another system, or the continuance of a failure.

This is the year of jubilee—fifty years since the formation of this Constitution—for it will probably be fifty years before the new one is adopted; the year of jubilee when slaves were emancipated and debtors freed by the code of the great Jewish law giver; and a proper celebration of it will be to put judicious constitutional reforms in operation.

My friend from Northampton, (Mr. PORTER) has deprecated the love of change. I wish he would explain what he means. This State has stood still, fast at her moorings, while New York, Massachusetts, Virginia, Connecticut, North Carolina, and all the other principal States have

improved their systems, and renovated their Constitutions—carrying out all those measures which are denounced as radical. It is a curious fact, that the only States of the original thirteen, that do not remain at their original anchorage, are the States of Rhode Island and New Jersey, where the judges are elected for a term of years, and the Governors annually. In the meantime thirteen new States have been admitted into the Union, every one of them with Constitutions framed on the principles which we advocate.

No other State has stood so still. We have been happy, because we have enjoyed civil and religious liberty. But the question is, whether we have fully developed our political faculties, and made the best use of the lessons of experience.

Independently of what is contained in the letter of the Constitution, its working, its practical operations and self producing developement have materially changed it.

PENN's charter announces the principle of rotation in office, not to be found in the terms of our State Constitution or in that of the United States. We owe its establishment to the example of that wonderful man, the first President of the United States. He was anxious to retire at the end of his first term of office: but greatly urged by leading men of the day, he continued in the Presidency. At the end of the second term no importunity could prevail on him, and by resigning he made a great Constitutional amendment in his example of the principle of rotation in office. So of the veto power as enforced during the Presidency of the late Chief Magistrate. In referring to this, he wished to be understood as simply stating the fact, not expressing any opinion on it (though he had one formed). The veto of the Constitution is the English *veto*, which was exerted for the last time by WILLIAM III., on triennial parliaments. The modern American veto is a Roman power, the tribunitian veto, an immense power to interpose between the people and their legislative representatives. The vast responsibility of standing between the people and an act of legislation, by appeal to the people against its acts, has been made part of the Constitutions of both this State and the United States. It was brought into them by the working of time—long since the Constitutions were made. The State bank power, and the corporation power are not in the letter of the Constitution. When the Constitution was made, Mr. MADISON says no such power was foreseen. The power of Justices of Peace has been wholly changed by practice. They were mere criminal magistrates, without civil jurisdiction or fee of office Constitutionally—created to keep the public peace within their respective limits. They have become civil judges, with extensive jurisdiction, much more felt by the mass of the community than that of the Supreme Courts of the Commonwealth.

Six hundred pardons, he understood, had been granted by the mild administration of the executive preceding the present—six hundred pardons in six years. Such an abuse was not foreseen by the Constitution. What is the English system of pardons? It is a flower of the crown to recommend royalty by clemency. The matter is submitted to the privy council who determine by consulting the judges, whether a convict is to be pardoned. The King never does more than sign it:

whereas here the pardoning power is perverted to party and other purposes. Persons are employed, professionally, to solicit pardons. Individuals address the Governor personally—the parents or children of the convict—and bring to bear upon him such immediate influence as human nature cannot resist. They wring from him that which the framers of the Constitution never anticipated. Such power should not be merely executive here—how to dispose of it he was not prepared to say. The Constitutional trial by jury has been totally changed by judicial usurpation. Gentlemen had passed high eulogiums upon the jury power; but the Pennsylvania trial by jury was no more like the old English trial by jury, than he was like the King. The judge tries the case here. Mr. I. wished to have a curb put upon judges: that their authority should be confined to the law exclusively; and that of the jury to be equally absolute as to facts exclusively; so that it will be impossible for the judge to meddle with the fact, or the jury to meddle with the law.

The population of Pennsylvania, is largely composed of two classes much alike in character—the society of Friends, and the German population—both incline to suffer inconvenience rather than resort to change; slow to change, segregated, mystic, tenacious and frugal even of opinions. With such a population Pennsylvania has been more stationary than any other State. Furthermore: The present Constitution began simultaneously with the French Revolution, which by its own excesses, and the hostility of all Europe headed by Great Britain, cast free principles for a long time into the shade. It was not until the peace of 1815 that they found any favor there, although continually germinating here. Since then, what may be called democratic reforms in many parts of government, the simplified of legal proceedings, the repeal of charters, and other vested rights, and many other radical alterations, have been carried much further in Great Britain than by any change proposed in this Convention. In France, also, fundamental and most extensive reforms have taken place within the last few years. Even the Spanish Constitution of 1812 was, in many respects, as popular as anything we contemplate. For what do we want, or ask for? Nothing, but that the democratic principles of self government should be carried further, as it proves itself worthy of further trust; that we should go on, as experience teaches us we may; no faster and no more. What but the democratic principle has made Great Britain the first nation of the old world as this country is of the new? It is neither the strength of Monarchy, nor the wealth of Aristocracy, that gives to England her pre-eminence; but those popular impulses of personal freedom and independence which there, as here, are the great spring and cause of individual and of national advancement. All we ask then, is, that this approved principle should be fairly and fully developed, by a system of Government that does not cramp, grudge, or dread popular sovereignty, but imparts to it all the power that experience proves it may be trusted with. No more. Let us declare that all government is a trust; that no Government is useful but what is indispensable: that every department of Government should be restrained as much as possible; the Legislature of omnipotence; the executive of preponderancy; and the judiciary of irresponsibility; let us distribute the three powers and define them as much as may be; divest the Governor of all patronage, so as to leave him the mere executor of the laws; at least restrict legislative proneness



to improvident, if not unauthorized acts; and render the judiciary independent and better, by making it less irresponsible.

I acknowledge that with respect to the judicial branch, my understanding is perplexed, and I am at a loss what it is right to do. I have no doubt that our present system has proved a failure, and that we must make the experiment of another. With a clause in the Constitution for future amendments, it will not be very difficult or dangerous to regulate that experiment as it proceeds. A strong judiciary I deem indispensable. The present system is essentially weak, because it does not enjoy public respect. Many gentlemen are extremely apprehensive of an elective judiciary. Yet the learned and venerable judge (HOPKINSON) who is a member of this Convention, in effect, holds his office by election rather than by executive appointment: the Administration having changed after his nomination, it was confirmed, and he was made a judge by the vote of Senators who were his political opponents. No one has been more consistent or explicit in his political opinions than that learned judge. Yet his politics did not prevent his election, as it may be called, to the judicial station he holds, by the votes of a Senate, a majority of whom were altogether opposed to him in politics, at a moment of high party excitement. The manner of appointing judges, their term of office, and liability to removal, are all questions of great delicacy and difficulty, upon which it is not easy to determine, and respecting which I have come to no determination, further than that we must change the present system, and can hardly change it for the worse.

Respecting the subject immediately in question, I oppose the article altogether as a miserable imitation of the English impeachment, to which it bears no analogy. Gentlemen will find it explained in the fourth volume of BLACKSTONE's commentaries, page 260, and in MONTESQUIEU's spirit of laws, to which BLACKSTONE refers, book eleven, chapter six. Both these authors say that the German trial mentioned by TACITUS, by which (confounding powers of government which both BLACKSTONE and MONTESQUIEU agree should always be kept distinct), the national council takes on itself to prosecute and to judge—*apud consilium*. After strongly condemning such a proceeding, MONTESQUIEU first says, and BLACKSTONE repeats the arguments, that the British Constitution is a great improvement of it: but why? For the very reason that we should reject it, viz: that the nobility, who compose the court of impeachment, have neither the same passions, nor the *same interests* as popular assemblies. Let gentlemen look at the number sixty-five, of the Federalist, and they will see that ALEXANDER HAMILTON, who there vindicates the impeachment clause in the Constitution of the United States, does so, doubtingly, and treating it as a mere experiment, the success of which he was by no means sure of. Yet that clause, the model of ours, adds at least, high crimes to misdemeanors, of which ours is deprived. English impeachment—which is it? What offender has it punished? MACCLESFIELD, a Judge, unanimously convicted of bribery, was not sentenced, if I am not mistaken. HASTINGS, MELVILLE, all the accused by impeachment, have escaped it with impunity, as those have also who have been impeached by our false imitation of originally a bad model. In the fourth volume of TUCKER's BLACKSTONE, page 262, may be found the Virginia system, which, by its simple and practical provisions, answers all the arguments

urged here. By it officers are impeachable, not of misdemeanor only, but for *mal-administration*, corruption, neglect of duty, or any other high crime or misdemeanor; and the facts are to be ascertained, and by a jury of the vicinage, not allowed to sit when the Legislature is in session. Give us these plain, merciful, and practicable provisions, (said Mr. I.) and I have no great objection. Restore even our National Constitution of '76; let us have the word *mal-administration* for the cabalistic terms *misdemeanor in office*; and the article may be of some effect. Otherwise I must vote against it altogether, as merely useless. The thirteenth section of the first article of the amended Constitution of New York, a Constitution in the framing of which RUFUS KING, CHANCELLOR KENT, and others, very eminent jurists, assisted, provides for the removal of all officers whose tenure is during good behaviour, by joint resolution of the two Houses of Assembly, two thirds of the Representatives, and a majority of the Senate concurring. This, Mr. I. thought, a much better plan than the proposed article: Indeed, until it is determined what shall be the tenure of office, it is premature to decide how judicial officers ought to be made responsible and removeable.

In conclusion, Mr. INGERSOLL said, he must be allowed to say a word on a subject that had, he thought, received and regulated too much, far too much, of the consideration and proceedings of this Convention—*party*. We have it from the presiding officer, that its organization, at least, was effected by party; and I have been more than once, said Mr. I.) charged with party votes. The member from Adams (Mr. STEVENS) had talked of party pledges in the county of Philadelphia; and the member from Franklin (Mr. CHAMBERS) had roundly taxed me with party votes here. I will not say that I disdained, but certainly I refrained from noticing these charges. They are, however, without any foundation. I have given no party pledge before I came here, or party votes since. I made known, at home, before nomination, with that unreserve which I think always proper, the constitutional reform which I desired to see accomplished; nothing more: and during the disreputable contests on this floor for officers, I answered, when my name was called, and I could not help it, with those to whom by party sympathy I am attached. But that did not prevent my regret, and early expression of regret, that this was made the place for such conflict. A call was placarded on the very door of this Hall before I got here, as I was told, for the anti-Van Buren members of the Convention to meet at the Court House, which ill-judged call led to a counter meeting of the democratic members, so called, which I attended. So far I am chargeable with party action, but no farther. If Mr. Van Buren maintains those great principles of a reforming and republican policy, to which I am devoted, he shall have my hearty support, and I shall be of his party; but not otherwise. Can any one be so short sighted as not to foresee that mere party denominations are almost worn out? that parties in this country are brought again to the test of principles? and that, while nearly all are striving to be thought democrats, they only will be accepted as such who are really willing to give popular sovereignty its full sway? that the dividing line between parties is soon to separate those who trust the people, from those who do not, by whatever names they may be called? Certainly it is. Democracy means *trust in the people*. By that standard (Mr. INGERSOLL said) he was willing to be tried,

and to abide the issue ; all other names and things of party are short-lived, and soon to pass away : and if he might close with his political or party creed in poetry, he would say :

Yea, from the table of my memory,  
I'll wipe away all trivial fond records,  
All saws of looks, and forms of pressures past ;  
And this commandment all alone shall live  
Within the look and volume of my brain,  
Unmixed with baser matter.

Mr. MERRILL said there seemed to be some misapprehension in relation to the powers of this body, and it seemed to him to arise from the loose manner in which gentlemen had spoken on the subject. All who have spoken on the subject, admit that we have certain powers conferred upon us. But what are those powers which have been delegated to us ? That is the question about which there is a difference of opinion. We have heard it repeated, over and over again, that the act of Assembly of 1835, is totally inoperative on this body ; and that it imposes no restrictions upon us whatever, and that we are the representatives of the people in some way beyond the restrictions of that act of Assembly. He would ask, whether this was the case ? He apprehended that this was not the case ; but that we were bound by every word and letter in that act : and although gentlemen may suppose that we cannot be instructed in any way but by the people, yet if they look at that act they will see that it is something more than a mere ordinary act of the Legislature. That act had been submitted to the people, and they voted upon it with the restrictions in it as they stand, and those restrictions are as much a part of our commission as though they had been submitted to us in terms from the people. We are here to propose amendments to the Constitution, and with no other or greater powers whatever. In 1825, a law was passed to ascertain the sense of the people of the Commonwealth on the subject of the call of a Convention ; and they then refused to have a Convention, because, as he apprehended, there was no limit to the power of that Convention. In 1835, however, they voted in favor of the call of a Convention, because it was to be a Convention with limited powers. It ought to be conceded, then, by every member of the Convention, that we are here acting under restrictions imposed by the people. We have no authority whatever to uproot the Constitution, but must confine ourselves within the limits prescribed by that act of Assembly, and sanctioned by the people. Some gentlemen have referred to the second section of the ninth article of the Constitution, and have argued as though this Convention had derived its power and authority from that section : namely, "That all power is inherent in the people, and all free Governments are founded upon their authority, and instituted for their peace, safety, and happiness. For the advancement of those ends, they have at all times an unalienable and indefeasible right to alter, reform or abolish their Government, in such manner as they may think proper". Sir, have we any commission to abolish the form of Government established in 1790 ? Or do we represent the people to that extent, that it is competent for us to throw aside this whole instrument, and organize a new form of Government ? No sir. He took it that we were restrained by that very act of the Legislature, which had been submitted to the people and their vote taken upon it, in

such manner that we only have power to alter and amend the Constitution, and that we have nothing to do with abolishing it. It had been asserted that we are clothed with all the powers which the people could confer upon us; and that we have every power which the people of Pennsylvania would have if here assembled. He would ask gentlemen, whether we can perform the ordinary functions of the Legislature? Can we pass a law giving away the Susquehanna to any individual, or company of individuals? Or can we make a law authorizing individuals to purchase the eminent domain of the State? No, sir. It is equally so with regard to the judiciary. Can we turn out all the officers of that department, and sentence all that we imagine have committed crimes? If we did, the members of this body would be punished before the ordinary tribunals of the country. We cannot become judges unless we exceed our commission, and assume upon ourselves authority never given to us at all. We are then a Convention with authority to propose amendments to the Constitution, and with no other authority whatever; as no man can doubt but that the vote of the people restrains us from exercising any other powers, and it restrains us according to the form of that act of Assembly. Then sir, we are here not with authority to abolish the Constitution; not with authority to secede from the Union; and not with authority to establish a different form of Government, because we have none of those powers conferred upon us by the people. But gentlemen may say that no person has claimed the exercise of those powers. If, then, they have not been claimed directly, they have been claimed indirectly; at least, words had been used here comprehending those large powers. If gentlemen would refer to any period of history in which powers had been claimed and not exercised, they would find what he had not been able to find. Whenever any one laid claim to a power, he generally succeeded in exercising that power. He did not know that any gentlemen had claimed these extensive powers for the Convention, but it was to be inferred from their arguments, and any gentleman who might have come into this Convention and heard those arguments, would have supposed that we were the representatives of the sovereignty of the people, with power sufficient to do any thing at all. This, however, was not the case. We can do nothing but what we are authorized to do by the people; and whatever powers they have not delegated to us they have kept from us; and we have no right to do any thing here except what we have been authorized explicitly and affirmatively by the people to do: we have no implied powers. As regarded the section now before the committee, some gentlemen seemed to think that a majority was a large enough number to commit; others were in favor of two thirds, and some thought unanimity ought to be required. But the gentleman from Philadelphia county seemed to think that the whole article was useless, and worse than useless, and thinks the ordinary tribunals would answer a better purpose. Mr. M. would ask that gentleman, however, whether he would put the whole expense of the trial of one of the high officers of our Government on the county of Dauphin? Would he have the county of Dauphin to pay the expenses of all the prosecutions of public officers, who had been guilty of any offences in that county? Again, an officer might be guilty of an offence over which no particular county had jurisdiction, and how was this to be punished? It seemed to him then that some court of this kind is absolutely necessary,

Under the old Constitution, six men could remove from office. Did any gentleman wish to return to any thing like that, or did they wish to have a tribunal for the express purpose of impeachment? The expense of keeping up such a tribunal would be a sufficient objection to it, and when kept up it would be no better than the ordinary mode. The present Constitution does not prohibit proceedings being had against an officer of the Government before the courts of justice, for any crimes. Although an officer may be impeached, that does not satisfy justice, if he has committed any crime for which any other individual could be prosecuted in a court of justice. The gentleman had referred to other Constitutions to show that the judges were impeached for high crimes. If then they were impeached and removed from office for the commission of high crimes, he presumed they were not punished in any other way. If so, Mr. M. should consider the practice pursued under our present Constitution far preferable. Let them be impeached for official misdemeanor; and if they were guilty of high crimes, let it be tried before the ordinary courts of law. Suppose an officer to be guilty of murder, how would your trial proceed? Would one tribunal be trying him for his office, and another for his life, at the same time? Or whether would the Senate or the court have exclusive jurisdiction over the matter? In every light in which he could view it, the Constitution appeared to him better than the Constitution of the United States, or the Constitution of Virginia, in this particular. He would let the Senate try the officer for misdemeanor in office, and the court try him—for any crime he may have committed. He wished to say a word in relation to this matter of scare-crow. It was strange to him that some gentlemen would use such language. We have men who have been tried by the ordinary tribunals and acquitted; yet afterwards violent language was used, and instead of the persons coming out from their trial free from all guilt, as they should have done, the tribunal itself was charged with having become guilty. Now, when we uphold a popular Government, we should uphold it in such way as to make it respected before the whole world, and show to the world that the people are capable of self-government. He went for a Government of the people, but he did not believe that because the people were capable of self-government, they were capable of getting along without a Government at all. We must then have a Government strong enough to protect the weak, a Government of the laws, and not a Government of force.

When gentlemen tell us that the judiciary system, in this State has turned out a failure, I would merely ask of them to reserve their decision on that point, until further discussion shall have thrown full light on the subject. If after examination it shall have been proved a failure, that it has not succeeded in securing the great ends of justice, and the protection of individual rights, then it will be time enough to look for the remedy. The gentleman who has just addressed the Chair says the experiment has turned out to be so bad, that we must make changes for the purpose of producing a system more perfect and better adapted to the wants and wishes of the people. Let him establish this charge, and I am prepared to adopt any changes which may promise superior advantages to the people of this Commonwealth. But when I look abroad, and see how it has operated on the business of the country, when I find that, under our present system, suits are brought to a termination within one year, how can



I be bound to adopt the opinion that it has turned out a failure? Where an evil exists, and another way is pointed out of affording a remedy, I have no objection to the adoption of a new system. But when we have already a provision, operating, without injury to any body; when I see our judicial officers not behind in their decisions, as is the case in other parts of the country where suits are sometimes protracted to nine or ten years, but that every man can get justice within a reasonable time, I must confess myself surprised to hear the gentleman say that the system is a failure. Whether it may be justly termed an experiment or not, I shall be prepared to say more, as well as in relation to some other opinions expressed by the gentleman, at a future time. I should not now have said a word on the subject, but for the circumstance of a gentleman of such weight and learning, whose opinions are calculated to produce an injurious influence on public opinion, getting up here, and gravely pronouncing our judiciary system a total failure, and declaring that we are in a situation in which we must take any thing we can get, any thing that may be offered to us. Convince the people that you have something to offer them better than that which they have, and they will be disposed to take it; but they will not sanction any inroads in the judiciary system, until it can be shown conclusively that it has turned out so totally a failure as not to produce the benefits for which it was instituted. I will not, at this time, follow the gentleman through the whole of his argument. He has gone far beyond me in his professions of attachment to antiquity. I have no disposition to carry my veneration so far as centuries before the days of PENN.—When we are in the possession of something, which has operated well, I am not willing to go beyond that in search of what may be supposed better. There will be time enough hereafter to answer that part of the gentleman's speech which relates to the making the Governor a mere man of straw, and to discuss all the other topics he has introduced. At present it will be sufficient to say that I am not prepared to overthrow the present judiciary system on the mere presumption that it is a failure.

Mr. MARTIN moved that the committee rise, but withdrew the motion for the purpose of having the question taken.

Mr. READ, of Susquehanna, said he had intended to move that the committee rise. If the gentleman from Union (Mr. MERRILL) was correct in the premises he had laid down, this Convention may be considered as merely on a par with the town council of a borough; and is the most inefficient body that ever met together. If we sit here only in obedience to an act of the Legislature: if we are to be bound in all our course, by the directions, restrictions, and limitations of an act of assembly, we had better not stay here another day.

Mr. READ here submitted a motion that the committee rise, report progress, and ask leave to sit again, which was negatived, ayes 51, noes 53.

Mr. READ then resumed and said, that in the remarks which he had to submit, he would be as brief as possible. He thought that he had understood the gentleman from Union (Mr. MERRILL) to say that, inasmuch as the preliminary steps had been taken by the Legislature, and they having, under one provision of the act of Assembly, so far sanctioned it, as to elect us in pursuance of it—that, therefore, we were bound by every word, and article, and letter, of that act of Assembly.

Mr. MERRILL explained; He did not mean to say that we were bound



by what the Assembly had done, but by the vote of the people approving the act of Assembly.

Mr. READ resumed: He understood the gentleman now to say, that inasmuch as we were elected by the vote of the people, under the act of Assembly, that, therefore, our powers were limited to such as the Legislature in its grace and favor had thought proper to grant us. Now, if that was the doctrine, then were we the most unimportant and insignificant body that had ever collected together. For what would the Legislature interfere? And where was its authority for interfering in the matter at all? Why, by virtue of the petitions of the people, asking them to make some preliminary arrangements for the purpose of calling a Convention. Had the Legislature any inherent power? The gentleman admitted they had not. He (Mr. READ) would refer him to the petitions for the purpose of seeing if they contained any limitations on our powers. If those petitions asked for, or authorized the Legislature to impose upon this Convention restrictions, why, then, we have no authority. The people neither asked, nor desired any such thing. They merely asked that an act should be passed, in order to take the sense of the people, whether there should be a Convention called, or not. There was no member of the Legislature, he would venture to affirm, who, at the time the law was passed, presumed, or believed, or uttered a suspicion or suggestion of the kind that the Convention, when assembled, would be under any control, or restricted by that act. He would not have voted for it, if any gentleman had risen in his place, and thrown out such an idea, that the act of Assembly was a limitation of our authority. He thought that it would be readily admitted, that the Legislature could not interfere any further than it was authorized to do by the petitions. He contended, then, that the Convention derived no authority whatsoever, from that act of Assembly.

Another gentleman, who had spoken on the subject, supposed that we derived our authority under a clause in the Bill of Rights of the old Constitution. This was not the case. We derive our authority from a much higher source than that. We came here not to obey the present Constitution, nor to support it. We came here to alter it—to change it. We are not bound by that Constitution. Whence, then, did we derive our authority? We derive it from the inalienable rights of man; from the inherent right of the people to self-government. We came here with unlimited authority in regard to our action—with the same powers that we should have, if we were going to form a new Government—the first Constitution that was ever made in Pennsylvania. We derive not our power from the Constitution, or the laws, but from the people. And what limitation did the people put upon this Convention? Whatever might be done by it, would be submitted for their decision. The only limitation on our power, then, was that we could not act definitively. We were left to do what was thought proper to promote their interests and welfare, subject to their revision.

He knew that it had been said by the President of the Convention, and other gentlemen, that the people had never decided that the Constitution should be altered. He did not know, exactly, the mode and the manner in which they derived that information. If, however, he understood the matter—although it was said the 40,000 who did not deposit their votes

in the ballot box, were against it, yet he thought that it was a fair inference that the 40,000 who voted for Governor, but did not vote on this question, were indifferent. And, it was fairly presumable, that if they had voted, there would have been 13,000 majority for amending the Constitution.

Gentlemen had argued, as if it necessarily followed, that because 40,000 persons did not vote for or against a Convention, who did vote for the election of Governor, that they would have voted against calling a Convention, had they voted at all. If that principle were carried out with regard to the election of President of the United States, or of Governor of Pennsylvania, how would it result? If those who did not vote for RITNER were to be counted against him, then JOSEPH RITNER was not legitimately Governor of Pennsylvania. There was no other mode of ascertaining the sense of the people, than by an appeal to the ballot boxes—than by the votes which were there deposited. The voice of the people could only be known, *pro* or *con*, by their votes. Then, there was a most decided majority given for calling a Convention—whether large or small, no matter. The people of Pennsylvania had decided, not that the Constitution should be amended, he admitted, but they had decided—and that decision was binding upon us—that we should submit amendments to the Constitution for their consideration. ●

He had something to say in relation to the act of Assembly, which gentlemen had brought to bear upon this subject. The Legislature, in its grace and favor, told us—“You, the Convention of the people, shall have the power, when assembled, to submit your doings to the people, in part, or as a whole”.

He had reflected much on the subject, and had come to the conclusion that the Convention could not submit the amendments to the people in any other way, than *en masse*. A moment's reflection would satisfy every one of the reason why. He granted that the Convention might make ten, twenty, or thirty amendments, in the form of amendments, to the old Constitution, and if they were all submitted separately, and a vote taken upon each, and if they confirmed them all, or negatived them all, we should then have a perfect instrument. But, let gentlemen reflect, what would be our situation, supposing that the amendments were submitted separately, and a part of them should be approved, and a part rejected? Why, then, we should have a part of a Constitution only, to supersede the old one, and it would be an imperfect instrument.

He thought, then, it would be apparent at once, that such difficulties would occur from the adoption of that course, as it would render it absolutely necessary that the amendment should be submitted as a whole. The only question which they had to decide was—whether they would take the old Constitution as it is, or a new one. Then, what, he enquired, became of the gentleman's (Mr. MERRILL's) niceties—his distinctions about a new Constitution, an amended Constitution, and amendments to the Constitution? Why, they all went for nothing.

On motion of Mr. SERGEANT, the committee rose, reported progress, and asked leave to sit again.

The Convention then adjourned.

THURSDAY, MAY 25, 1837.

The **PRESIDENT** laid before the Convention a memorial of the Democratic Anti-Masonic Convention, assembled in Harrisburg, praying the Convention to provide in the Constitution for the abolition of secret societies, which was read, and referred to the special committee, to whom that subject had been committed.

Mr. **TAGGART**, of Lycoming, presented a petition from citizens of Clearfield county, praying that the appointment of certain civil and judicial officers, should be taken from the Governor, and that they should be elected by the people, which was laid on the table.

Mr. **COPE**, of Philadelphia, from the committee of accounts, made a report, which was read a first and second time, and agreed to.

Mr. **HIESTER**, of Lancaster, offered the following resolution, which was read a first and second time :

*Resolved*, That on Monday next, and daily thereafter, until otherwise ordered, the Convention will hold afternoon sessions, and meet each day at half past three o'clock, P. M., for that purpose ; and that the Convention will regularly adjourn its morning sessions at one o'clock, P. M.

● The question being on agreeing to the resolution,

Mr. **BROWN**, of Philadelphia, moved to amend, by striking out the words "half past three", and inserting the word "seven". The motion, however, was immediately withdrawn.

Mr. **BELL**, of Chester, did not think the Convention would gain any thing by afternoon sessions. The business they were sent here to perform, required much deliberation ; and time and attention were necessary to enable them to act understandingly. They were in the practice of meeting early in the morning, and sitting till dinner time ; much correspondence and other public business was on their hands ; and this and all their private affairs had to be disposed of after 3 o'clock. He hoped the resolution would not be agreed to.

Mr. **MANN**, of Montgomery, was in favor of the resolution, notwithstanding the objections of the gentleman from Chester. They could not be better employed than in listening to speeches, calculated to throw light on the subjects on which they were engaged. A debate, which seemed to be almost interminable, on a single proposition, had occupied all this week. Either this discussion must have been profitable to gentlemen, or it was an useless waste of time. The afternoons might be very well devoted to these discussions. Half the session had elapsed, and they had not yet touched the business for which they had been sent. He hoped they should meet twice a day.

Mr. **RUSSELL**, of Bedford, moved to amend the resolution, by adding the words "and that the Convention will regularly adjourn its morning sessions at one o'clock".

Mr. **MARTIN**, of Philadelphia, believing that no good effect would be produced by meeting after dinner, moved the postponement of the resolution. The committees had not yet reported, and it was their practice to meet in the afternoon to mature business for the Convention.

Mr. **MANN** replied, that he was not aware that there would be any business before the committees after the present week, and asked for the ayes and noes on the question of postponement.

Mr. HIKSTER stated that the greater part of the committees had already reported, and probably the whole of them would have reported during this week. He did not know how long gentlemen intended to sit. He thought, when he came here, that the Convention would be able to get through the business in two or three months, but, from the course of debate which had been commenced, and to which he would not be understood as making any objection, as he derived much instruction from the discussion, unless they should meet in the afternoon, it might be six months, or twelve months, before they would get through. He thought two hours might be profitably devoted in the afternoon.

Mr. REIGART, of Lancaster, considered his colleague and the gentleman from Montgomery, as having given sufficient reasons for the postponement of the resolution. They had both stated that the standing committees had not yet reported. He knew himself that one of the committees had not yet had time to report. The resolution ought to be postponed until after the reports of the committees had come in. Afterwards, it might, with more propriety, be brought forward, and if it was then deemed expedient to adopt it, that objection would be removed.

Mr. EARLE, of Philadelphia: The reason given for postponement was that the committees which had the various articles of the Constitution referred to them almost three weeks ago, to report merely amendments, had not yet done so. If a committee of nine, had not been able to agree in three weeks on amendments to an article, how long would it take 133 members to agree on all the amendments? That was a sum for his friend over the way. The judiciary question, fixed for Monday next, would occupy all the week, and the other reports would take three or four weeks afterwards. The committees, who had not reported might sit in the evening.

Mr. CHANDLER, of Philadelphia, rose to express a hope that the resolution would be postponed. The gentleman on the other side had set the Convention a sum in the rule of three, which would in due time be worked out, if his friend from Bucks (Mr. M'DOWELL) did not take it in hand. It was a bad argument, that because a committee had not reported in three weeks, it would not report in four. He knew of one committee which was not yet prepared to report.

Mr. EARLE: It will before Monday.

Mr. CHANDLER did not think it would. It was intimated that while the judiciary question was under discussion, the committees might go out. Was an important discussion to go on, and were the committees to be sent out, during its progress? He wished to be present, and to hear the discussion. For fifteen years, he had heard this question mooted, and he was yet at a loss as to the best course to be adopted, and he desired that the committee to which he belonged might not be sent out of the room. The committee was not yet prepared to report, and would not be ready by Monday, or Tuesday, nor, perhaps, by Wednesday. When it was prepared and had reported, the members would be permitted to sit here and listen to the gentlemen on the other side, and some might be well pleased to listen. The gentleman from Philadelphia (Mr. INGERSOLL) had brought with him from home a mass of references, but he (Mr. C.) would like to look into these authorities, to see for himself, and not take on credence what had fallen from the gentleman—for although that gentleman

always deserved credence for his facts, it would not always be conceded to his opinions—and, for himself, he would like to look into the fathers of the political church, and judge how far they sustained the gentleman. Considering the amount of labor to be done, and the necessity for intervals of refreshment for themselves, and those engaged in their service, he hoped the resolution would be postponed.

Mr. CLARKE, of Indiana, hoped the resolution would be postponed.—He knew there were some modest gentlemen, who were tired of the discussion on the fourth article. But that discussion had grown up and expanded, because there appeared to be no opposition to it—because there was none. The gentleman who had discussed it, took the liberty of traveling all round the world, and giving the Convention a dissertation on matters and things in general. But they would not do this when the main questions came to be debated. They who complained that this discussion was too long would not complain when they should come to subjects, on which there would be opposition. The present debate would soon come to a conclusion. He hoped this resolution would be postponed. Morning was the best time for discussion. He objected to meeting in the afternoon. Who ever had been in a legislative body knew the inutility of meeting for deliberation and discussion, after eating a hearty dinner.—Members might as well speak to the wall in the afternoon. If there was any deliberative body which ought to discuss the subjects before it, and to weigh well every word, it was this Convention. It ought to do well what it has to do, since it is not so very much. There was an old and a trite maxim which gentlemen would do well to bear in mind. “If you do a thing well, no one will ask how long you have been doing it”. He would like to be able to render to his constituents a good account of his time and labor, and to shew them good reasons for spending so much time here. He would be willing to lengthen the morning session, and to set until two or three o’clock, he could go without his dinner as long as any gentleman could, but he should oppose afternoon sessions to the end of his life. He was still more against sitting in the evening. Who ever had seen an evening session, had seen a burlesque on legislation. The resolution as it had been modified, was worse than in its original form. It compelled the Convention to rise precisely at one o’clock, although it might be in the middle of a speech, or just as the eyes and noses were about to be called. He hoped gentlemen would be satisfied with the morning, and make that morning as long as they pleased. But he was unwilling to sit in the afternoon at all. The health of members ought to be some consideration. They were coming to the warm weather of summer, and they would not consult their health if they were to sit here, during those hours which they ought to devote to exercise. It would be absolutely necessary to health, to take exercise. Some could not live without it, and others would wish to employ the afternoons in reading, for a good deal of reading was necessary to enable them to perform their duty as it ought to be performed.

Mr. BELL, of Chester, said, there seemed to be a feeling against the length of the speeches which had been delivered, and the wide range they had taken. He had listened to those speeches with as much delight as benefit, and he wished for time to enable him sedulously to apply himself to the business which would come up for consideration. One of the most

momentous subjects which would agitate this body, would come up on Monday next. On that day the discussion would begin, but when it would end no man could tell. More solid food would then be administered to gentlemen than that with which they had heretofore been fed. New points would be submitted, which would require reading, deliberation, and discussion. There was an old adage which might not inaptly be applied—"more haste, worse speed". If the Convention were to meet in the afternoon, it would spend its time to no purpose; the work would be ill done, and gentlemen might fall unhappily into a ridiculous position before the public eye. Instead of saving time, time would be lost.

Mr. PORTER, of Northampton, would vote in favor of afternoon sessions, and against postponement for a different reason from any which had been yet assigned. He desired to give those, who wished it, an opportunity of trying the experiment, as experience would only teach them what these after dinner sittings were. After a week's trial, he believed no one would be disposed to continue them.

Mr. SHELLITO, of Crawford, suggested that it would be well to reconsider the resolution giving them so many newspapers, which it occupied all his time to address to his constituents. So much time was taken up in sending away these papers, that he could not find any leisure to listen to the speeches, and he wished to understand what he was doing.

Mr. MANN said it might be better to let the resolution remain in the form in which it was originally offered. He did not think it quite so judicious to fix the precise time for the adjournment of the morning session. He was sorry to hear remarks of a character calculated to detract from the high standing of this body. The fumes of digestion, he trusted, would not operate so as to prevent a proper attention to business. The days were long, and gentlemen would have sufficient time for reflection in the evenings.

Mr. CURLL, of Armstrong, expressed a hope that the question would be taken, and that this discussion would not be allowed to consume the whole day.

The question was then taken on the motion to postpone, and decided in the affirmative—ayes 68, noes 51, the vote being as follows:

**YEAS**—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bell, Biddle, Bigelow, Brown, of Lancaster, Brown, of Philadelphia, Butler, Carey, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Chauncey, Clarke, of Beaver, Clark, of Dauphin, Clarke, of Indiana, Cleavinger, Cline, Cope, Cox, Crain, Cunningham, Curll, Denny, Dickey, Donnell, Doran, Farrelly, Fleming, Forward, Foulkrod, Fry, Gamble, Grenell, Helffenstein, Hopkinson, Hyde, Konigmacher, Long, Martin, M'Cahen, M'Dowell, Meredith, Merrill, Myers, Nevin, Overfield, Porter, of Lancaster, Reigart, Read, Riter, Rogers, Scott, Seltzer, Serrill, Shellito, Snively, Stevens, Todd, Weaver, Weidman, White, Sergeant, *President*—68.

**NAYS**—Messrs. Bonham, Brown, of Northampton, Clapp, Coates, Cochran, Craig, Crum, Cummin, Darlington, Darrah, Dickerson, Dillinger, Donagan, Earle, Fuller, Gilmore, Hamlin, Harris, Hayhurst, Henderson, of Allegheny, Hiester, High, Houpt, Ingersoll, Jenks, Keim, Kennedy, Kerr, Krebs, Magee, Mann, M'Call, M'Sherry, Merkel, Miller, Montgomery, Pennypacker, Pollock, Porter, of Northampton, Purviance, Ritter, Royer, Russell, Saeger, Sellers, Scheetz, Sill, Smyth, Swetland, Taggart, Woodward—51.

Mr. PORTER, of Northampton, offered the following resolution, which was ordered to be laid on the table:



*Resolved*, That the Auditor General be, and he is hereby requested to communicate, as far as he has the means:

I. The amount drawn from the State Treasury, for the support of the militia of this Commonwealth, other than that incurred for their support in time of war.

II. The amount of fines imposed for refusing or neglecting to train at militia musters.

III. The amount of such fines collected and paid into the State Treasury, and the expenses of collecting, and manner in which the same have been appropriated, embracing the period from 1790, to the present time.

Mr. EARLE, of Philadelphia, rose to offer a resolution. Many members, he said, had laid resolutions on the table, containing propositions of amendment to the Constitution. With some of these gentlemen a considerable degree of doubt existed as to the particular article to which an amendment should be attached. To obviate this difficulty, he proposed a change of the rules. He then submitted the following resolution, which was ordered to be laid on the table, and printed.

*Resolved*, That the rules of this Convention be amended, by adding the following section:

SECT. —. When an amendment shall be proposed, either in Convention or in committee of the whole, to any article or section of the Constitution, and a doubt may arise whether such amendments do not more appropriately pertain to another section or article, it shall be in order to move to refer such amendments to such other article or section, and to take the question on such reference, either before or after taking the question on the amendment.

Mr. DENNY, of Allegheny, submitted the following resolution, which, in consequence of a suggestion from Mr. PORTER, of Northampton, the committee on the ninth article having already reported, was ordered to be laid on the table, and printed:

*Resolved*, That the committee on the ninth article of the Constitution be instructed to enquire into the expediency of prohibiting imprisonment for debt.

Mr. CHANDLER, of Chester, from the minority of the committee on the fifth article, presented the following report, which was ordered to be laid on the table and printed; and was made the special order for Monday:

The undersigned, a minority of the committee to whom was referred the fifth article of the Constitution, report the following amendment:

SECT. 10. Justices of the Peace shall be appointed in such manner, and in such convenient districts, as may be prescribed by law. Each district shall contain not less than one nor more than seven hundred taxable inhabitants, and shall be entitled to at least one and not more than three justices, who shall be commissioned by the Governor for the term of five years, but shall be removed on conviction of misdemeanor in office, or of any infamous crime, or may be removed on the address of both houses of the Legislature: *Provided*, That in no case shall they be elected by the Legislature, or either branch thereof.

JOHN CHANDLER,  
JAMES MERRILL.

#### FOURTH ARTICLE.

The Convention then resolved itself into committee of the whole on the fourth article, Mr. DENNY in the Chair.

The question pending being on the motion of Mr. DICKEY to amend the report of the committee, by striking out "majority", and inserting, "with the concurrence of two thirds",

Mr. READ, of Susquehanna, resumed his remarks on the subject. From

the commencement of the debate on this fourth article, he said, he had not had the remotest intention to address the committee, till he was drawn into the discussion by the extraordinary doctrines advanced by the gentleman from Union. He was drawn into it by the moving of a spirit, whether identical or not with the spirit of '76 he would not say; but, he did say, that the doctrine which he opposed was the same as that of the British Parliament which our fathers resisted. It was the doctrine of Parliamentary omnipotence, which our forefathers resisted, at the cost of the toil and suffering, and the blood and treasure of the revolutionary struggle. It was the doctrine of legislative omnipotence; of the subserviency of the people to the mandates of the Legislature. Was this the doctrine of the gentleman? He says nay: he tries to escape the inference, by the position that as we are elected by the act of Assembly, every part and parcel of that act is made binding on us. Now, sir, what is the fact? The Legislature have no more right over the powers of this Convention, than the town council of London has. Their power is limited to the simple act of providing preliminary means to ascertain whether it was the sense of the people of Pennsylvania that the Convention should be held. He was not aware that there had been any petitions from the people wishing for the second act of Assembly; but, if there were any such, they were confined to instructions to the Legislature to name the day and place of election, and of the meeting of the Convention. The Legislature were never called upon to interfere any further in the matter, and he might safely say that the people, notwithstanding the act, could have fixed an earlier day for the meeting of the Convention, but they preferred the day fixed in the act on the score of convenience.

Some persons, (said Mr. R.) who were radically conservative, had made some trouble about the words amendments, amended Constitution, and new Constitution. It was doubtful whether there was not a majority of the Legislature against the Convention, as a new party had just come into power, and having got the loaves and fishes to dispose of, wished to give reform the go-by. The limitation was, therefore, inserted, with that object in view. We laughed at the idea, that the Assembly would have power to limit the Convention, but voted for the act, knowing that that could make no difference as to our powers. The people looked at the acts and seeing in them a convenient mode of electing delegates and convening them, they acquiesced in them, to that extent; but, in his part of the country, they absolutely laughed at the attempt of the Legislature to limit the powers of the Convention. The idea of the gentleman from Union, that the Convention is subservient to the Legislature was extraordinary; there was never any thing so monstrous put before a deliberative body as that doctrine.

Mr. R. would not, he said, detain the committee long. He meant to lay down some plain principles, in a plain way, by which, he hoped, he would untie this Gordian knot, relieve the Convention of all difficulty as to this question of power, and from all the speculations which had been built on distinctions, without differences. He would, then, lay down a few principles, which, he believed, would commend themselves to this body; and they were, in the first place, that there is no foundation for the distinction between "amendments to the Constitution", "an amended Constitution", and a "new Constitution", There was no distinction, in

fact, between the three modes of expression. We can submit the instrument to the people in no other way than as a complete Constitution—complete in all its parts. The Legislature, in the plenitude of their power, said we might submit the amendments severally as distinct parts. In this case we should, probably, be left without any Government. If all the amendments were rejected, or all agreed to, it would make no difference; but the chance was, at least, in the proportion of thirty to one, that some would be rejected, and others adopted. What would then be the Constitution? The affirmation of a part of the amendments would nullify and supersede a part of the present Constitution. The instrument would be left imperfect, and there would be no power to supply those parts which might be wanting. He thought, then, that it was very plain that we could not submit separate amendments to the people, because it might place us in the dilemma which he had indicated. We must, then, present a new Constitution to be acted upon, by the people, as a whole.

The next question was, whence is the power of this Convention? He was satisfied it was not from the Legislature; but some gentlemen, who were reformers, had fallen into the error of supposing that we derived our authority from the Constitution of 1790. That Constitution, on its face, was perpetual. In its terms, it was endless in duration; and it seemed to him, therefore, very plain that we could derive no authority from it to make amendments. It was obvious that, in the organization of this body, we had not derived any power from the Constitution of '90. No one even suggested it till recently. The true power, (said Mr. R.) by virtue of which we are here, is found in the Bill of Rights; it is in the inalienable right of all men to self-government—to alter, amend, or abolish their own Government. This was the true source of our power, and upon it there was no limitation but one, and that was the Constitution of the United States, which we were bound to recognize as the supreme law of the land. That was the only limitation. It was true, that what we did would be of no effect unless it was confirmed by the people, but we were still unlimited in power of action. The approval of the people was not a limitation, but a condition precedent to the operation of the new Constitution; but no limitation of action. All his votes here would be predicated upon this fact; and he hoped, that hereafter, we should not be compelled to sit here and hear speech after speech, about the limitation of our powers by the acts of Assembly.

The submission of the amendments to the people was not in virtue of the act of Assembly, but was required by the votes of the people.

He would say a few words in reply to the able argument of the President. He had taken no notes of what he said—but he believed he was not mistaken in supposing that he contended that the people had never yet given a vote decidedly in favor of change in our fundamental law. He confessed that he was unable to understand the argument of the President, in relation to the votes not polled. He agreed that those who did not poll their votes were to be considered as perfectly neutral on the question; and, therefore, he inferred from the state of the polls, that the people were decidedly in favor that alterations of the Constitution should be proposed. There were very few gentlemen who would hold their seats here, if all the votes not given for them were to be counted against them. The President had begged a question which could not be decided—that

the people who did not vote were opposed to the Convention. But the terms of the position as the President put it, were perfectly true. The people have not said in so many precise words that there should be a change. But that is not the question; he would not suppose that the President had put his position in that form for the purpose of avoiding the real question—but the real question was, whether changes should be submitted to their consideration. Whether there shall be any changes or not, was not a question for us to decide, and we were not sent here to decide it; but we were sent here with positive instructions, not to *make* changes, but to *submit* changes, alterations, and amendments. That was the question which the President should have discussed. Each of us, he admitted was, to a certain extent, the representative of the whole Commonwealth. If the people had decided this question, and instructed us positively, and without equivocation, that the amendments should be submitted to them, we were bound to submit them. The President had put a position that had no bearing on the question. He (Mr. R.) did not deny the power of the Convention to adjourn, without proposing any amendments; it was not a question of power, but of might. He denied the right of the Convention to do so. After positive instructions not to make change, but to propose change, if we went away without doing any thing, it would be a gross dereliction of duty. We had no moral right to separate, without presenting amendments to the people.

I pass (said Mr. READ) to some remarks which fell from the venerable gentleman from Philadelphia, (Mr. HOPKINSON). That gentleman he understood, to lay down the principle that there was but one mode—the ballot box—in which the voice of the people could be made known. This appeared to him a new doctrine. He had always been taught to believe there was another legitimate organ of the voice of the people—petition. On the principle laid down by the gentleman, what becomes of the right of petition? That was a Constitutional mode of expressing the voice of the people. That was one of the rights which, as he had reason to believe, was deeply seated in the affections of the people. It was not only one of the most important of the rights reserved to the people, but it was deeply fixed in their affections. The gentleman was also aware that an instruction in writing was no more binding than an oral communication. The latter was just as binding as if it had been put in the words and form of a petition. The Constitutional rights embraced such instruction, as well as any other form of petition or instruction. Where is the delegate on this floor, who has not constantly found the voice of the people on this subject, by communication, face to face—by listening to the expressions of their views? There was not a man on this floor, (said Mr. R.) who does not believe that he knows pretty accurately the sentiments of his constituents. Thus, there were two modes of hearing the voice of the people; and the second was susceptible of division, into written and oral communications. The latter form of instruction had been given to this body, and would oblige us to submit alterations of the Constitution for their adoption.

But the gentleman had remarked that the people really cared nothing about their proceedings, and were utterly indifferent to the object for which we had convened. Because our tables do not groan under the weight of petitions and remonstrances from the people, he judges that

they feel no interest in what we are doing, or may do. Mr. R. would not agree to the fact that there was no interest exhibited by the people. In our own galleries, he had not witnessed so much interest and anxiety, for the ten years during which he had been in public life. The reason why petitions were not, in greater numbers, laid on our tables, was, that the people are not in the habit of petitioning in regard to the general principles of public policy. The gentleman says our tables are not covered with petitions, and memorials and protests, as those of the Legislature are, and he would tell him the reason. The great mass of the business of the Legislature is local, and the body of the people send petitions in relation to their local objects. Nearly every petition that is received calls for some legislative action on a local subject; and few or none relate to questions of general policy. On the latter subjects, it is presumed that the Legislature are made acquainted with the wishes of the public through oral communication with them, and other channels; but, in regard to the former, the Legislature would not know what was wanting, without petitions. There was no necessity for the people to address us, by petition, in regard to our duties, because they are well understood. We know their sentiments; for every question of policy before us, has been talked over between the delegates and their constituents. The people, (concluded Mr. READ) have directed us, by oral instruction, what to do here, and that is the reason they have not loaded our tables with petitions. Every month and day, for the last three or four years, this matter has been discussed in presence of these very delegates. We have all heard the voice of the people.

Mr. STEVENS said, it was evident that every member must speak on this question, and he might, therefore, as well work out his part of it, at once. He had understood the gentleman from Susquehanna to say that we stood here independent of, and superior to, the Legislature; that we owed no obligations to the Legislature, by whose authority we were called together, but were responsible to the people alone, and from them derived our power. Sir, is this true? How came we here? Under what authority does the gentleman hold that seat? By the act of the Legislature. Why had not the respectable auditory behind the bar, as a portion of the people, a right to come in here, or organise themselves there, and digest and adopt amendments to the Constitution, and submit them to the people for their adoption? If they have not the right, then the power has been taken out of the hands of the people and deposited elsewhere. The gentleman has certainly not read the act of Assembly lately; for he said that we were bound by that act, to submit amendments to the people.

Mr. READ. The gentleman has certainly mistaken my language. We were not bound to submit amendments in virtue of the act of Assembly. He held that we derived no power nor obligation from that source. What he had said, was, that we had no moral right to oppose the will of the people, who had said that they wished us to submit amendments to them.

Mr. STEVENS. Will the gentlemen show me the written document wherein the people have said that?

Mr. READ. They said it in the ballot boxes.

Mr. STEVENS. There was nothing of this sort said in our ballot boxes. There was nothing deposited in those boxes, except the tickets, super-



scribed, "Convention", or "no Convention". Did the gentleman's constituents write any thing else on their ballots? Did they there say, that they would have such and such amendments? I defy any one to show any other authority under which we are here convened, and under which we act, except that of the Legislature.

Mr. READ. I will tell the gentleman where the authority is to be found. Not on the tickets—but in the number of votes deposited in the ballot boxes for the Convention. Those votes, having been given by a majority, were tantamount to an instruction to the Convention. When the votes were counted, it was found there was a majority of thirteen thousand for a Convention. In that vote was expressed the will of the people, that the Convention should assemble and submit amendments to them.

Mr. STEVENS continued. I understand the gentleman's meaning, but not his argument. There was nothing, the gentleman admits, contained in the ballot boxes, but the tickets for and against a Convention. We had as good a right to infer, then, so far as the ballot boxes were concerned, that the people intended, by their votes, to indicate their preference of a candidate for the Presidency, or for the re-election of the republican farmer, the honest democratic anti-masonic candidate for Governor, JOSEPH RITNER, as a wish for any amendments to the Constitution. There was nothing in the ballot boxes which shewed that the Convention was not assembled for the purpose of nominating candidates for the office of Governor of the State, or President of the United States. The gentleman would not derive any authority or instructions from that source. It might as well have said that we are here to put at rest the eternal clamor of the agitators against the Constitution and laws of the Commonwealth, as to say, that we are here to submit amendments to the people, and are instructed to submit amendments. In short, the gentleman had just as good a right to say, that we had come for one thing as for another, unless he went to the original question, which was submitted for the decision of the people, and which was simply this—a "Convention", or "no Convention", and nothing else. But, if the gentleman can refer us to any document, and shew in it our instructions and authority from the people, that would mean something. We must, then, go back to the act of Assembly under which we were called together, for the source of our authority; and it could be no moral treason, as the gentleman supposed, to withhold amendments, which we were not under any obligations, according to that act, to submit.

But the gentleman contends, that the act of Assembly is nothing, except so far as it designates a convenient time and place for the meeting of the Convention, and the mode of electing its members. Now, sir, is any man here so wild as to believe this. Has not the gentleman overlooked the object, and forgot the form of that act. We came here with authority, and with nothing else but authority, to submit amendments to the people.

Mr. READ explained. The reason was to be found on the tickets themselves. When the people voted, they voted for a Convention to submit its proceedings to a vote of the people. The people had made this a condition precedent upon their votes.

Mr. STEVENS: But how was it, that the people, one and all, accepted of this act of assembly. Did not they, by that very act, show that they conceded the act of Assembly, and did they presume that we would as-



semble together under any other power. No sir, there are no such absurd beings among the people. They went according to the constituted authority of the country. They acted upon and under, and not independent of the act of Assembly, and every man who voted for or against the assembling of this Convention, voted according to the prescribed terms of this act. Do gentlemen think that we are the people? Or the assembled attorneys in fact of the people? Some gentlemen seemed to think that we are the people themselves—not in a figurative sense, but in truth and in fact. He begged leave, however, to decline any such authority. We came here as the attorneys of the people, with power to perform certain duties—limited powers; and when we came here, we came with this power of attorney in our pockets. What then is the duty of an attorney under a limited power of attorney? The gentleman knows, when a limited authority is given, if we do any thing beyond that, we are faithless to our trust. Suppose some one was to authorize him to sell a mill, and invest the money in a farm, and after having sold the mill, he was to tell the person who conferred upon him this trust, that he knew more about attending to his interests than he did himself, and put the money in his pocket, would not the man take from him his trust, and never put faith in him afterwards? Yet, the consequence of the argument of the gentleman from Susquehanna, does lead to something like this, and he cannot escape from it. He would now notice an argument of some other gentleman, who went in favor of amending the Constitution, because the people had heaped up petition after petition upon the table of your Speakers of the Legislature, year after year. Well, how many petitions were there presented to the Legislature on this subject? In one year there were petitions presented, signed by two thousand, all, he believed, the respectable constituents of the gentleman from Philadelphia; he believed he could have got more to sign a petition to burn down the Penitentiary. At the next Legislature there were three thousand, and at the next six thousand. Never, at any one session, did the number exceed six thousand, that was laid upon the tables of the Legislature, but still he was willing to gratify that number, and he voted for two successive years to gratify these six thousand. Did, however, that six thousand make it imperative on the two hundred thousand voters, or would any man say that these six thousand petitions would make it imperative upon us to submit an amended Constitution to the consideration of the two hundred thousand voters who felt indifferent on the subject? He was going now to address an argument to the Convention, which he did not suppose would be considered a very good one by some gentlemen. There had been thirty thousand citizens, for three successive Legislatures, praying for the passage of a law prohibiting the formation of secret societies, and the taking of extra-judicial oaths; and at last, the popular branch passed a bill to that effect, and sent it over to what is commonly called the aristocratic branch, and there his good friend from Susquehanna, (Mr. READ) disobeying the prayer of these thirty thousand petitioners, voted against it, and it was voted down. Now, sir, where was the majesty of the people, and where was the respect for the people, and the regard for the right of petition, which is now so deeply and sincerely felt by the respectable gentleman from Susquehanna. He had merely mentioned this, to keep it in the minds of gentlemen, that the delegates of eighty thousand of the people of Pennsylvania, had laid this

morning on the table a simple request, that an amendment may be submitted to the people, prohibiting the continuance of secret societies and extra-judicial oaths.

He had heard here, on yesterday, doctrines which seemed to him to be more revolutionary and disorganizing—he would not say JACK CADE, because he had been told that that was a vulgar name, but he would say JOHN CADE, and when he said JOHN, gentlemen would understand him as meaning JACK—than ever were the doctrines of JOHN CADE, when he marched with his clan towards London, and hung up every fellow who could write, with his pen and inkstand strung around his neck. We have heard it uttered that the minority of this Convention have a right to remain here, form themselves into a little select band of reformers, draw up a Constitution and submit it to the people; nay, that a minority any where would have the right to submit amendments to the Constitution. Is this the opinion of this body? Is there, in a land of liberty, regulated by laws, any man with such rebellious doctrines; doctrines more rebellious than those which showered upon the head of the elder GRACCHUS so much of infamy and execration. His doctrines were to restore to the people what had been taken from them; to give back to the people their Constitution, but here the attempt was not that the minority should support a Constitution, but that they shall upturn it, and supply its place with some new fangled notion. He confessed that, to his mind, these doctrines were alarming; as they had a tendency to loosen the affections of the people from the Government, and to place the rights of individuals and the community at large, of the poor man and of the rich, upon the tempestuous billows of faction; and yet these are the doctrines held forth within these walls to a great assembly deliberating, and legislating upon the fundamental laws of the land. Some gentlemen have told us, that a majority of the people never voted for the call of this Convention; but that forty thousand were indifferent about it; that they felt no interest in the matter, and were satisfied with the Constitution as it was; but other gentlemen tell us that because they were indifferent that that was no evidence that they did not desire a change, and the gentleman from Philadelphia (Mr. INGERSOLL) tells us that that very indifference makes him desire to make a new Constitution which will create a liveliness in their minds in respect to it. This was the position, and it seemed to him to be the very worst position which a man could take. It has been said, and well said, that all Government, and all law is, in some measure. a clog, or check upon the people; and that when we enter into society we give up some of our rights to the Government, therefore, all Government is a check upon the people, and it should be so until the millenium arrives, when all men will be bound by pure christian philanthropy. At the present time, however, all Government was a check or yoke, and when this yoke fits so easy on the people that when they were asked if they wanted it taken off, they said they cared nothing about, did gentlemen want to make it fit easier? No, sir, but they want to make it fit so tight and rub so hard that the people will desire to be relieved from it. No doubt then when they come to vote on the subject again, after this binding operation, they will vote with a great deal of lively interest. There had been a great deal said about the majority which had voted on this subject of the call of the Convention; but he had no doubt many of those persons, who had voted for the Convention

would not have done so had it not been for the purpose of getting rid of some royal Arch Mason, who held a life office in their county. It had been said that the old Constitution was good for nothing, and it ought to be burned up, because it was made by lawyers, not by BEN FRANKLIN, the printer, or the Quaker preacher, but it was made by lawyers. Chief Justice BLACKSTONE, and his aids made up the Constitution of 1790, and the argument of the gentleman was intended to bring the lawyers into some kind of ridicule. But, why so? Had they not, on all occasions, been reformers? And that, too, because they were the first to perceive when the laws were violated by those who had the administration of them in their hands. Was this the reformation the gentleman was going to bring about? Was there any thing in the Constitution which would make a lawyer unfit to assist in the drawing up of a Constitution? He should be sorry to see a Convention of lawyers altogether, but at last an instrument of this kind must receive its finishing touch from some one learned in the law. BEN FRANKLIN, whether he was a doctor of laws or not, had some knowledge of the law, and was, doubtless, competent to prepare such an instrument. Was it not in the very nature of the profession, that they should be the first to take the alarm when encroachments were made by a tyrant? Who were the reformers of the revolution, your ADAMS', your OTISES', your JEFFERSONS', and your HANCOCKS'? Were not they lawyers, and were not they the very first to take a stand against tyranny? Is it then to be asserted here and sent forth in the newspapers, that lawyers are too corrupt to be trusted in the forming of a Constitution? He trusted not. He had heard here, too, some keen satire, for satire it must have been, which was not calculated, as he thought, to be agreeable to the parties. He had heard it said that two young gentlemen, the youngest in the body, for whose judgment, and learning, and wisdom he had as high an opinion as any man, possessed more knowledge than the framers of the Constitution of 1790: more knowledge than your MIFFLINS, your M'KEANS, your FINDLEYS, and your SMILEYS. He would ask what offence these young gentlemen had committed? that they should be caricatured in this public way! These young gentlemen were men of correct judgment, and they could not believe that this was said of them in sincerity any more than that it was said in sincerity of the pious gentleman from Chambersburg.

What was it which made Government free and the people independent, and happy? The rich can take care of themselves; they have the means of protecting themselves; but the poor man, the humble man, the lowly man, and the labourer, they are the prey of every overbearing tyrant unless there be a fundamental or State law to guard them against these encroachments, and an independent judiciary to administer the law; a judiciary above the reach of this detestable change of which we have heard so much. LYCURGUS, alarmed at the evils which were to result from change, which tyrants desired to make in his country, set himself to work to frame a code of laws to protect his native country from the encroachments of tyrants: after toiling for some time he completed his code and called around him the people of the country and submitted it to them, and after he found it agreeable to them, he asked them to swear never to abolish it until he should return. They swore to do so, and so satisfied was he of the importance of the stability of Govern-

ernment, that he went forth and exiled himself from his country, with the determination never to return, lest the people should be absolved from their obligation. He even carried it so far, that he ordered his body to be burned and the ashes scattered to the winds, lest some reformer should take it back and discharge the people from their obligations. If he had the head and the heart of LYCURGUS, he would not care what the ephemeral reformers of the present day would say of him. But gentlemen had preached up the doctrine, trust the people. Depend upon it, there never was a more dangerous word when not addressed to the intelligence of the citizens. Did you ever hear of a suppliant for power who intended to rob the people of liberty, but he would begin by bowing to the people, and praising them, and telling them that those who did not do as he did were aristocrats? He had never heard of one who did not creep through the most filthy sewers to get into the Garden of Eden to poison the pure. Mr. Chairman, what is the question under consideration.

The CHAIR: The question is on the motion of the gentleman from Beaver, to strike out of the report of the committee the words "a majority" and insert "two thirds".

Mr. STEVENS: Then I have nothing to say on that subject.

Mr. FLEMING, of Lycoming, said that the greater part of the debate which we had heard was with a view to satisfy the members of the Convention, that no change was necessary in our present Constitution. Again, a vast deal had been said about the powers of the Convention, and arguments had been adduced to show that all power was conferred on this Convention by an act of Assembly on the subject of calling the Convention. Surely, if we examine these acts, or examine the acts of the people for a moment, there could be but little difference of opinion in relation to the powers of the Convention. He was willing to endorse the arguments of the gentleman from Susquehanna, (Mr. READ) and when he was told about Legislative restraint, and about the act of the Legislature being binding on the Convention, he wanted some sound and substantial argument to convince him of that fact. If the Legislature, or if the people had gone on and defined our duties and pointed out exactly what the Convention should do, the gentlemen might tell us that the powers of the Convention were limited, and that we were limited to the performance of certain acts which were pointed out, and that we could go no further; because the people had said so. But, was this the fact? No, sir. There is not a single act which the people have pointed out to be performed by the Convention; yet we are gravely told, that we are limited in our powers. Now the whole extent of our limitation might be summed up in a very few words. The whole limitation was that the people reserved in their own hands the right of adopting or rejecting such amendments as we might propose, and this was the only restraint which he knew of; and this was the plain, simple, straight-forward construction of the question. But to say that there was any distinct and specific acts pointed out by the Legislature for us to perform, was a matter which he had never heard of until he heard it contended for on this floor. The people themselves, by their act, through the Legislature, have called this Convention for the express purpose of taking up the Constitution of the Commonwealth; and for what? Not to touch it—not to touch this article or that, because we were limited in our powers! Why, he could not, for his part, see the force of this reason. As he conceived

we have a right to examine every article and every section of this Constitution; moreover, we can remodel the whole instrument. But, say some gentlemen, amend it as you will, although you remodel the whole instrument, it is the Constitution of 1790 still. He imagined this would not be the case, and though we make but very immaterial amendments to it, still it would be the amended Constitution of 1837, if adopted by the people. We are told by gentlemen that the question, was whether or not we should have the Constitution amended? Now if this was the question, we may as well take the vote and say that no amendments are necessary and go home at once. But he conceived this was not the question, and as to restrictions, he imagined, we were under no other restraint than the wholesome and wise provision reserved by the people of passing upon the acts of the Convention after we have got through with our labors; and if they adopt the amendments which we may propose to them, then we will have a new Constitution, but if they reject them, then we will remain under the Government of the Constitution of 1790. The gentleman from Adams had said that the rich could take care of themselves, but that it was the poor man who needed protection. Here he agreed with the gentleman. This is a sound doctrine, and although that gentleman had told us in the next breath that the people desired no change in our fundamental law, still he conceived that the Convention owed it to the poor man, to relieve him from the oppression which he is laboring under in consequence of some of the unwholesome provisions of the Constitution of 1790. Did not every gentleman on this floor know, that the poor man was giving the very pennies which he should apply to the support of his suffering wife and children, to support a herd of Justices of the Peace, who had neither moral honesty nor conscience, yet this "matchless instrument" is not to be altered, is not to be amended, and in fact was not to be touched. In his own little experience he had known of many serious oppressions practiced upon the poor by either the ignorance or the corruptness of Justices of the Peace; and if it was for no other purpose than to relieve the poor man from this burthen, he would amend the Constitution, and consider it one of the brightest days in the history of Pennsylvania. He hoped it would not be contended that improvements could not be made in this "matchless instrument", he was as much disposed to pay all due respect to it as any other man on this floor. It was not his intention to trespass upon the time of the Convention in going into the wide field of debate which had been opened up, and he had merely risen for the purpose of expressing his own sentiments in relation to the powers of the Convention. This question has been agitated day after day, and although he held himself open to conviction at all times, yet after all the argument he had heard he was not convinced that there was any other limitation of the powers of the Convention than the reservation the people had made of passing upon our acts. If there was any other limitations, or any other checks placed upon this Convention, either by the Legislature, by the people, or by any provision in the Constitution, he should be pleased to have gentlemen point them out to him, so that he might not be going on under his mistaken notions of the powers of the Convention any longer.

Mr. BIDDLE said it would seem from the course of argument of gentlemen here, that there were some among us who questioned the doctrine that the people were the source of all political power. He knew of none



such here; nor did he know of any one who questioned the right of the people, when they shall think proper to do so, to alter the fundamental charter of their Government; nor did he know of any who questioned that we were now assembled here, and authorised by the people to deliberate upon and make changes in the Constitution to be submitted to the people, if we deem changes necessary. All agree that such changes as in our deliberative wisdom we may deem salutary, we have the right and the power to submit them to the people, for their rejection or adoption. These were plain propositions, about which there was very little diversity of opinion. Some gentlemen, however, say that we are bound to make changes; and that the people have directed us that changes must be made; and here was where he differed with them in opinion. He did not, however, intend to go over the whole ground, nor argue this question at this time; but other gentlemen had said that changes must be made. Now, with a view of showing the difficulty attending this question of reform, he would relate an anecdote which he had heard a few days since. There were four great reformers, who met together for the purpose of consulting on what measures of reform were necessary to be made to the Constitution. It was proposed by the first, that the immense patronage of the Governor should be taken from him. It was replied by another that this must not be done, because it was necessary his power should be retained for the purpose of counteracting the power of the President of the United States, and the proposition was negatived, three to one. The second proposed that the tenure of office of the judges should be changed, so that they might not practice oppression upon the people with impunity. This was objected to, because we should not interfere with the independence of a body in which the people at large had so great an interest, and that proposition was negatived, three to one. The third proposed that we go back to the Constitution of 1776, when we should have but one branch of the Legislature, and this was negatived, three to one. The fourth gentleman proposed to reform the whole system in relation to Justices of the Peace, by whose misconduct and mal-administration the whole mass of the people had been suffering great evils. This was objected to, because that the party with whom these reformers had acted had been in the ascendancy for four-fifths of the time since the adoption of the Constitution, and that it would be a direct reflection upon their own party administration to say that the officers of their choice had appointed a set of officers so unfit for the administration of justice, and this proposition was negatived, three to one. In this way, then, were all these measures of reform voted down by men who were themselves all reformers. What evidence then, have we, that these propositions would be acceptable to the people; or have the people instructed us to make any specific changes? He was not one of those who was opposed to all change, but he would say that before we made any change in an instrument, under which the people have enjoyed so much happiness and prosperity, we should enquire and weigh the matter well, and only decide in favor of change, when the clearest proof was adduced that a change was necessary.

Mr. WEIDMAN, of Lebanon, said he rose for the purpose of placing himself, not only in the position in which he ought to stand before this honorable body, but his constituents, also, who had sent him here to represent their wishes and to protect them in their rights. The gentleman



from the county of Philadelphia (Mr. INGERSOLL) had supposed that because he (Mr. W.) was one of the committee on the fifth article, who had reported it, recommending sundry amendments to the Constitution, he must necessarily be a reformer. Now, he begged leave to remind the gentleman that he was in a minority of the committee—that he objected to making any amendments, and although he had given his sanction to the report of the majority over that made by the minority, still he was opposed to both reports—

Because the system proposed tends to destroy the independence of the judiciary, so essentially necessary to guard the rights of the people, and protect their happiness.

Because the present provisions of the Constitution, are the best safeguards against the encroachments of party spirit, and the tyranny of factions.

Because the present system tends to the administration of justice, without fear, and with a strong hand.

Because the amendments proposed, are against the will of the people whom I represent.

Because the present system of tenure during good behaviour, is found not only in our State Constitution, but in the Constitution of the United States, and sixteen of our sister States; and experience teaches that wherein the tenure of good behaviour holds, justice is administered with wisdom, firmness, and moderation.

Because the projects of reform contemplated by the report have in part been already tried by the people of Pennsylvania, and after an experiment for fourteen years, was rejected by the framers of the present Constitution, as dangerous and insufficient to a fair and impartial administration of justice; and therefore the Council of Censors was abolished, together with the election of the Justices of the Peace by the people.

But, (continued Mr. W.) if he was in a minority on this occasion, he was sure that he was not when the vote of Pennsylvania was taken, in order to ascertain whether a Convention should be called. He found that the counties which voted against a Convention, contain a population of 835,543 souls, and those which voted for a Convention contain 512,690, making a majority of above 300,000 against the call. Therefore, he stood on this floor as one of the representatives of 800,000 people, in which, if gentlemen believed that the ballot boxes speak the language of the community, from whom they derived their authority, they must believe that the people have said—"We are satisfied with this matchless instrument".

The execution of the Constitution he had heard attacked, but not its principles. The officers connected with every branch of the Government, he had heard attacked, and the Executive had been arraigned on charges of mal-administration; the Legislature, for its encroachment upon the eminent domain; and the judiciary, because the Constitution was made by lawyers. And, within the last few moments, a sweeping charge had been made against a most respectable body of citizens, he meant the Justices of the Peace; who, it had been said, were, without one exception, oppressors and grinders of the poor. When he looked around his neighbors and saw who filled the office of Justices of the Peace, he was unwilling, nay, he could not possibly subscribe to the assertion, that they

are *all* grinders down of the poor. And, if this Constitution should be amended, why, forsooth—

Mr. FLEMING: I should be glad if the gentleman would designate—

The PRESIDENT said that the gentleman from Lycoming was out of order.

Mr. WEIDMAN resumed: He did not believe that the evil complained of in regard to Justices of the Peace, was owing to any defect in the Constitution. If they acted improperly and inconsistently in the discharge of their public duties, the people held the remedy in their own hands, and if they did not choose to exercise it, it was their own fault. He thought this general denunciation of the whole class, unjust and undeserved. He maintained that the system was not bad, and that it was better than any that had been proposed. The gentleman from the county of Philadelphia (Mr. INGERSOLL) affected great astonishment at the tenacity with which some members adhere to established usages, because they have stood the test of time, and at the same time says, "you must go back to the old Constitution of 1776". He was in favor of new things, but nevertheless, he wished to bring back that old worn-out instrument, adopted for fourteen years, and found wanting when our population was only 40,000, and to throw aside the Constitution under which we have lived, in happiness and prosperity so long. For his own part, he trusted that no such experiment would be tried. He had always regarded it as a principle to be adhered to—that the Constitution should not be hastily, and for slight causes, changed—not altered until the defects in it were so glaring that all could point them out. The gentleman from the county of Philadelphia had said, that a majority of 13,000 of the people of Pennsylvania have declared, that the Constitution should be altered. Now, if he (Mr. W.) understood the provisions contained in the different State Constitutions, and in the Constitution of the United States, the fundamental principle was therein laid down that Government should never be changed by a bare majority. But, that it was necessary that two thirds of the people should come forth, and express their opinions in favor of a change.

He was opposed to amending the Constitution, because 800,000 of the people of the Commonwealth were satisfied with it, and had sent their delegates here to say so. And, whatever other gentlemen choose to do, he should not sit still here, but would represent his constituents, faithfully and fairly. He believed that the present Constitution was fully adapted to secure to every man his life, his liberty, his property, and his reputation. Notwithstanding it might be charged with being aristocratic in its principles, that instrument should have his hearty support. If any thing was wrong, it was in consequence of a bad administration of it, and not any defect in the Constitution. If the representatives of the people had not confined themselves within the legitimate sphere of their duty, the evil was easily corrected through the means of the ballot boxes. And if, too, the Executive transcended the great powers vested in him, he could be made amenable to the law. He should be impeached. He (Mr. W.) had heard it said, that the Chief Magistrate of this Commonwealth possessed extraordinary powers. Among the rest, great objections had been made here to the veto power; and it was said that it was a power which was not exercised by the fathers of the Constitution. Now, he begged to apprise gentlemen that on reading the history of their country, they would

find that General WASHINGTON himself was the first man who exercised the veto power. In 1813, in this State, Governor SNYDER exercised it on the bank question; and although the Legislature passed the bill, notwithstanding, the people approved the act of the Governor. It was one of the greenest laurels that now flourishes in his honors. It was the exercise of that power which made him popular to the day of his death. And yet, gentlemen said, that this was the power which ought not to be exercised. It was proposed to take away from the Executive the pardoning power; that he should not be allowed to save a poor culprit (although he is the only power upon earth that can do so) from an ignominious death, even though there should be many mitigating circumstances connected with his crime. The gentleman had said, that 600 had been pardoned by the several Executives of the State. Now, he (Mr. WEIDMAN) was for retaining this power. He believed it to have been fairly exercised, at least, as fairly as imperfect man knew how to exercise it. The gentleman from Philadelphia county had made charges against the Executive, for not having given his grounds upon which the pardoning power was exercised. Now, he (Mr. W.) entertained not the slightest doubt, that the people would support the Executive in what he had done.

Mr. INGERSOLL: I made no charge against the Executive. I charge no Executive. I am very cautious in doing so.

Mr. WEIDMAN continued: He did not mean to say that the gentleman had charged Governor RITNER or Governor SNYDER, or any other Governor in particular, with having improperly exercised the power entrusted to him. But, he had spoken against the exercise of that power, and for what purpose? Why, for the purpose of bringing into contempt that beneficent and humane power which was entrusted to the Executive, according to the provisions of the present Constitution. Would the gentlemen say that if Governor SNYDER's recommendation had been carried into effect, that the troubles which afterwards ensued in the Commonwealth, from 1813 to 1821, would have happened and oppressed our citizens?

He (Mr. WEIDMAN) was well aware that the veto power had been abused in Pennsylvania, as well as elsewhere. That excellent power had been violated by the late President of the United States—by the ruler of the Nation. That power, however, had been used by the present Governor of this State, very recently, and he had no doubt that the exercise of it would be appreciated—regarded as one of the most judicious exercises of the power ever known.

The power of the judiciary was also complained of. The gentleman had said that the power of the judiciary should be limited. Now, this was in direct opposition to the republican feature. Gentlemen would perceive that no less than seventeen of the whole number of Constitutions laid upon their tables embrace the doctrine that judicial officers shall hold their offices during good behaviour. Would any of the members of the Convention abridge that power? Would they take it away from the Executive? He could not believe it. Would they go so far as to make the judiciary power dependent on the Legislature? When the Legislature passed unconstitutional laws, who, he asked, was to judge between them and the people? Take away the patronage of the Governor—strip the judiciary of

its independence and its power, and the Legislature would overbalance them and swallow up all their powers.

He maintained that if it was the determination of the Convention to make alterations in the Constitution, they would be compelled to disregard the 800,000 votes given against the adoption of that course. Some few amendments might be made to that instrument which might meet the approval of those who went against these general amendments. But, notwithstanding all the arguments that he had heard, he was yet to be convinced that there were any imperfections in the Constitution.

Mr. BROWN, of Philadelphia, said he did not rise to make a speech, but he had held in his hand the journal of the debate, since the gentleman from Adams (Mr. STEVENS) had made his eloquent harangue, which he did not mean to read, as that would not be in order, but merely to repeat from it what had been said and done by the gentleman from Adams on former occasions. On the 8th of the month, the gentleman from Adams moved that a committee be appointed on the "State debt"; and said it had been "asked by the people whether there should not be some *constitutional* limit to the State debt". Again, on the same day, the gentleman from Adams "moved that a standing committee be appointed on the subject of *secret societies*", and said, "that the *subject of secret societies had engrossed the public mind to a great extent*", "there was no subject upon which the people felt a deeper interest;" "*more than eighty thousand had made it a question at the polls*"—"it was a question *he should bring before the Convention*", &c. Such were the views of the gentleman from Adams, at that time; but what does he say on the 23d, two weeks afterwards. He says, "about the amendments which the people expected and demanded, *he did not believe, he said, that the people, or one in a thousand of them, wanted any amendments*"—"none of the people were *dissatisfied with the Constitution*, unless it was *some old fellow who had been sent to the penitentiary*"—"the great body of the people were now all contented with the Constitution as it was". Mr. B. said he would now merely ask the gentleman from Adams, whether *the eighty thousand he stated required the Constitutional amendments in relation to secret societies, were the "old fellows who had been sent to the Penitentiary?"*

Mr. STEVENS said he meant those constituents of the gentleman from Philadelphia, who laid about in sheds, and had been turned out of the penitentiary.

Mr. CUMMIN, of Juniata, addressed the Chair. He said he did not rise to make a speech, but to ask what the question was, on which the gentleman from Adams had delivered a long and elaborate address: he asked the Speaker what the question was? [The Chairman stated the question, and Mr. CUMMIN continued]. He said that there had been so much said in favor of reform, and against it, that the question was lost sight of. He thought there was too much talent in the Convention; too much time lost in discussion. One party thought that the Convention had no power to make amendments, and the other thought that it had no power to refuse. One party thought the old Constitution a matchless instrument, and that it ought not to be touched; while the other thought that it required to be amended. The difficulty is to tell which is the majority. He thought both sides should cease awhile, and settle the question. Let the question be decided whether there shall be any reform or not, and if not, let us go

home: if it is settled that we have a right to make amendments, let us go to work.

Mr. BROWN observed, he would say to the gentleman from Adams, that he was not aware that any of his constituents had ever been in the Penitentiary; some of them, however, might have been; they were no better, nor were they worse, than the people in other parts of the State, and if the records of the Penitentiary did not tell falsely, some of the constituents of the gentleman from Adams, had found their way into it. Perhaps *these old fellows* were a part of the eighty thousand he had alluded to, who had expressed their wishes to have constitutional amendments in relation to secret societies. But he had only brought the subject to the notice of the gentleman from Adams, for the purpose of showing with what *aptness that gentleman answered his own arguments*; and to say, that he had no doubt, the gentleman from Adams would in a short time, if left unnoticed, answer himself, and refute all that he had just said.

Mr. DONAGAN said—Mr. Chairman, I rise with great diffidence—not for the mere purpose of occupying the time of this Convention—not, sir, with the view of making a long speech upon nothing, so as to incur the disapprobation of the talented and experienced gentleman from Northampton, with what urbanity soever that disapprobation may be expressed, and certainly not for the purpose of casting any additional light upon the subject now under discussion, but simply for the purpose of declaring, in the most public and distinct manner, the reasons which will influence me, in giving my vote, on the present and all other questions, that may come before the Convention—and to let those whom I have the honor to represent in this highly respectable body, both see and know, sir, that I am at my post, attending to the duties I was sent here to perform according to the best of my very limited abilities.

Permit me, Mr. Chairman, to remark, that what I now say has been drawn from me, partly by certain observations which fell in the course of this debate, from gentlemen on this floor relative to the county of Berks—and partly, it may be, by a desire—an overweening desire, to be sure, to appear among the debaters on this question.

The citizens of Berks county, sir, at the election in 1835, gave a large and decided majority, against the holding of a Convention, not by that vote declaring there was no room for amendment—nor that they were opposed to judicious reform, but barely signifying their unwillingness, to trust that Constitution—that frame of Government, under which they had lived, I may say, in a state of unexampled prosperity for nearly fifty years—into the hands of any set of men, however honest, however capable, and however patriotic, they might be, for revision and alteration.

But, sir, since that time, unlooked for, but vastly important circumstances have transpired, that are not, in my opinion, proper to be entered into at this time, but which have induced them to desire certain amendments, and to desire them so earnestly, that at the November election, they elected delegates who were known to be favorable to reform, by an average majority of upwards of 3,400 votes, over the opposing candidates, who had pledged themselves in printed circulars to be opposed to all reform and in favor of the old Constitution. For these amendments, I shall most assuredly vote, when they come up in the Convention.

Beyond this, Mr. Chairman, I do not consider myself authorized to go.



On the contrary, in relation to those articles, and the fourth is one of them, against which I have not heard a syllable of complaint, I will vote for retaining or adopting them, in the form in which they stand in the present Constitution. Yet, sir, if I knew that it was the desire of my constituents that I should vote for the amendment, I would most cheerfully do so, for I confess myself to be a rigid and inflexible friend to the right of instruction in its most unqualified sense, and shall, on all occasions, vote in accordance with the wishes of those whom I have the honor to represent.

On the question now under discussion, sir, I consider myself negatively instructed. But were I at liberty to follow the dictates of my own private judgment in this matter, my own individual opinion is, and has been in favor of the article, and even had it been otherwise, the justice and wisdom of the particular section now under consideration, was in the early part of this debate made so clear and manifest to my understanding by the able and eloquent remarks of the presiding officer of this body, that I should vote for the article as it now stands, without alteration or amendment. I shall vote for the amendment now under consideration, as I believe it goes to restore the section to its original shape.

Before taking my seat, I beg leave to return my grateful acknowledgements, through you, Mr. Chairman, to the committee for the indulgence with which they have listened to my uninteresting remarks, and to assure them, that I will at no time, trespass much upon their patience.

Mr. SILL said that he would ask the indulgence of the committee to a few remarks he would submit, as well on the subject now before the committee, as well as to that which for some days past had occupied so much of its time and attention. He alluded to the nature and extent of the authority by virtue of which the Convention were assembled, and the duties which devolved upon them.

On these points (said Mr. S.) there seems to be a great difference of opinion. Some gentlemen seem to suppose that the powers of this Convention are not only wholly unlimited, but that they are neither derived from, nor in any way affected by, the acts of Assembly under which we have been elected. They derive the power of the Convention immediately from the will of the people, as expressed by their votes in favor of a Convention, without any instruction of the Legislature whatever, and without any reference to the acts of Assembly on the subject. It is, on the other hand, contended, that the will of the people respecting a Convention having been expressed by the Legislature, that this Convention is bound by the provisions of those acts of the Legislature, and must act in conformity thereto.

There seems also, to be a difference of opinion as to the *duties* of this body, it being contended on the one side, that an *obligation* is imposed upon us, by the people, whatever may be our own opinion on the subject, to propose some amendments to the Constitution. It is, by others, supposed that we fulfil our duty to the people, by carefully and conscientiously deliberating on the subject of the Constitution, the defects that may be pointed out therein, and the remedies that may be proposed therefor; and returning the Constitution to them, either with, or without amendments, according to the best dictates of our judgment in the matter. Although there seems to be a considerable difference of opinion on these points,



yet I do not think, that in a practical point of view, it is of much importance.

I have not been able to bring my mind to the conclusion, that we are not bound by the provisions of the act of Assembly, which authorized the taking the votes of the people of this Commonwealth, on the subject of calling a Convention.

I fully and freely admit that all power is vested in the people, and that they have an undisputed right, whenever their interest requires it, to amend, reform, alter, or totally abolish the form of Government under which they live. This doctrine is fully established in that text book of our political faith, the Declaration of Independence; it is the foundation of civil liberty, and constitutes the essential principles on which all free Governments are founded.

But, in the practical application of this doctrine, it must be regulated by another great principle which controls and regulates all popular Government; that is, that a *majority* must govern. While I admit, that any community, or the people of any country, have an undoubted right to change their Constitution or form of Government, I contend that it requires a majority of the people to effect it; and that the smaller portion of any community cannot, without the assent of the larger portion, change the form of Government, which has the assent of all, and, without the assent of the majority, impose upon them, another and a different form of Government.

Let us apply those principles to the case now before us. The Commonwealth of Pennsylvania contains, at least two hundred thousand free-men who are entitled to have a voice, and give their votes in any matter relating to the laws or Government of their country. I take it to be fully admitted, that each and every of those individuals, have, either expressly or impliedly, given their assent to the present Constitution and form of Government under which we live. Can this be altered or amended, by less than a majority of that whole number? Can eighty thousand, or any number less than a majority, rise up, and, without the assent of the remaining one hundred and twenty thousand, take from them their present form of Government, and impose on them a new Constitution? I think that no one will contend that they can.

The whole number of votes given in favor of a Convention for the amendment of the Constitution, was about eighty three thousand; and in pursuance of the vote of this eighty three thousand, who constituted but a minority of the whole number of voters, were the members of this Convention elected.

How, then, did the vote of the eighty three thousand citizens acquire this binding validity and force? How could the vote of the eighty three thousand control the whole two hundred thousand? Undoubtedly by virtue of the act of Assembly of the 14th of April, 1835, which directed the votes of the people to be given for that purpose, and authorized the votes that were given to be considered as an expression of the will of the people. It was this, and this alone that gave force and validity to that vote. The act of Assembly directed the vote of the people to be given on the calling of a Convention; a majority of the votes thus given were in favor of calling a Convention, and by virtue of the same act of Assembly, a majority of the whole number of votes thus given, constituted the rule of

action for the whole. It was from that source that this Convention emanated and was called into existence ; and it was that act of Assembly which gave life and effect to the vote of the minority of the people.

If then it is necessary to call into view that act of Assembly to show the authority from whence this Convention originated, must we not, also, regard all the provisions of that act ? When we recur to that act, as the authority, at least in part, for the calling of this Convention, must we not also look to it, to ascertain the purposes for which it was called ? And what were those purposes as expressed in the act itself ? *To propose amendments to the Constitution, to be submitted to the people ;* and with no other or greater powers. Here then is the authority under which we act, and the nature and extent of that authority.

I readily admit, that, after the people had decided in favor of calling a Convention, no subsequent act of the Legislature could direct, or abridge the powers of that Convention. It was not competent for the Legislature, by the act of 1836, which directs the mode in which the delegates shall be elected, and the Convention meet, to limit the acts or prescribe the duties of that Convention. That act of Assembly was only ancillary to the main object of calling the Convention. It could neither regulate its duties, nor control its powers.

What conclusion then, it may be asked, do I draw from these premises ? It is that while this Convention are unlimited in their powers of proposing amendments to the Constitution, they are under no obligation to propose any change, provided they do not think the public good requires it. There is nothing in the powers vested in them, or in the duties devolved upon them, which prevents them from proposing amendments to the whole of the Constitution ; or compels them to agree to amendments to any particular portion of it. What then, it may be asked, is to regulate their conduct in the performance of this duty ? It is that principle of rectitude, that sense of duty, which is supposed to reign in the breast of every gentleman who has to act a part in the deliberations of this assembly.

But after all, I apprehend that the difference of opinion on this point is not very important in its practical application. What are the principles which will, no doubt, regulate the votes of this Convention in the decision they will make ? Is it not the fitness and propriety of each amendment itself which may be proposed, that will regulate and determine the vote that will be given on it ? Will any member of this Convention vote for any amendment that may be proposed to the Constitution, not because he approves of such amendment, but because he considers it as his imperative duty to make some change ? I trust not. On the other hand, will any member refuse to vote in favor of an amendment, which his conscience dictates to him is right and proper, because he considers his powers are too limited to permit him to do it ? This, I think, is equally evident,

As to the propriety and extent of changes which are required to be made in the Constitution, I do not agree in opinion with many gentlemen who have expressed opinions on this subject. My own views are, that the opinions expressed by gentlemen, on both sides, are rather in the extreme. Some are of opinion that no changes whatever ought to be made. I think this opinion to be erroneous. With all my respect, and veneration for the Constitution, under which we have so long lived and prosper-

ed, I think that time and experience has shown that some changes might be made in it to advantage. Others are of opinion that the Constitution is so defective as to require almost a total change. One gentleman (Mr. INGERSOLL) has expressed an opinion that the system of the judiciary has been an entire failure. With this opinion I cannot coincide.

I consider the judiciary to be in many respects, the most important branch of the Government. It is by the exercise of the powers of this department, that the rights of the citizens are protected and preserved, and when there is a total failure in this department, all the purposes of the Government seem to have failed. I know of nothing in the situation of our State, which would justify such a conclusion. Although it is possible that the system may admit of some improvement, yet, generally speaking, it has not failed to preserve the rights of the citizens. Some changes I think may be made with advantage, but they should be undertaken with all that caution and deliberation which their importance requires.

Mr. S. said that the discussion on this subject reminded him of a work with which he had been familiar in his early years, and which was no doubt, familiar to many gentlemen in the Convention. It was a work which was written by one of the wisest and best men that had ever lived, and contained lessons of practical wisdom and virtue, which were worthy the attention of all. He alluded to FENELON, Archbishop of Canterbury, the author of *Telemachus*. Under the name of MENTOR that great and good man imparts the most admirable lessons of wisdom and virtue to his royal pupil, who was himself destined to sway the sceptre of a mighty empire. He is teaching him the science of government, and after giving him much information on the nature of government, and the different forms of it which prevail in various countries, he closes with this remark, which is worthy of all attention. The best rule, says he, in forming an opinion on the character of any Government, is to observe the condition of the people who live under its operation, and feel its effects. Wherever, he continues, you find the people prosperous and happy, secure in their possessions, and contented with their lot, where agriculture thrives, where commerce is protected, and the arts and sciences receive encouragement and reward, there, you may be confident that the people live under a good Government.

Mr. Chairman: If we apply these remarks to our own State, where shall we find more evidences of a good Government than every where meet our eyes?

Does not this prove that there is not a total failure in the more important part of our political institutions? While, therefore, we proceed with care, to remedy the defects which time has disclosed in our political edifice, let us bear in mind the many benefits it has afforded us, and not tear down its pillars, or remove its foundations.

Mr. SMYTH, of Centre, said he would not have risen, or said a word, but for what had fallen from the gentleman from Lebanon (Mr. WEIDMAN). His situation was similar to that of the gentleman, and his vote would be given under the same circumstances. It would be seen that Centre county, a small county, when the vote was taken on the subject of a Convention, gave one of the smallest votes in favor of it. There were but 530 votes for a Convention, and 2,341 against a Convention. It might be expected of him to give some explanation of the state of public

feeling at that time, and since. Parties had, at the time when the question of a Convention was submitted to the people, taken high ground. The opinions which prevailed among the people was, that it would be then dangerous to trust the amendment of the Constitution to a Convention. That apprehension also prevailed with himself, and he accordingly voted against the calling of a Convention. But since that, times and the opinions of the people had undergone a change. He was himself a farmer, and he had associated with the farmers of the county, and he knew, as well as any one, what were their wishes and desires on the subject of amendments. He did not mean to say that he associated with those who were opposed to all amendments. They were very few in his county. He was in favor of certain amendments, and was determined, so far as his vote and influence would avail, to obtain those which he thought were necessary, and were wished for by those he represented. There were some things in the Constitution which he disapproved, and which he knew he should be acting in accordance with the opinions of his constituents, if he endeavored to have amended. He thought it necessary to make this explanation in relation to his constituents. It was not the case that there was a large majority in favor of amendments, nor did those who were in favor of them, feel disposed to go to such an extent as some gentlemen wished. He was in the majority of the committee which reported this amendment, but he had no great feeling on the subject. If other parts of the Constitution were amended in the way they wished, the opinions of those who composed the committee was, that this clause should be left to stand as it is in the Constitution. He had thought it incumbent on him to submit these explanations and views.

Mr. CHAUNCEY, of Philadelphia, then rose to address the committee, when,

On motion of Mr. FORWARD, the committee rose and reported progress, and obtained leave to sit again.

The Convention then adjourned.

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### FRIDAY, MAY 26, 1837.

Mr. TAGGART, of Lycoming, presented a petition from a number of the inhabitants of Clearfield county, praying for the adoption of such amendments of the Constitution, as would impose restrictions on banking corporations, which was read, and ordered to be laid on the table.

Mr. PORTER, of Northampton, moved that the following resolution offered by him yesterday, be taken up for a second reading, which was agreed to:

*Resolved*, That the Auditor General be, and he is hereby requested to communicate, as far as he has the means: First, the amount drawn from the State treasury for support of the militia of this Commonwealth, other than that incurred for their support in time of war. Second, the amount of fines imposed for refusing or neglecting to train at militia musters. Third, the amount of such fines collected and paid into the State treasury, and the expenses of collection and manner in which the same has been appropriated, embracing the period from 1790 to the present time.

Mr. READ, of Susquehanna, suggested that the gentleman from Northampton, by turning to the last report of the Auditor General, might obtain all the information he sought after.

Mr. PORTER replied that his object was to get the information laid on the tables of the members, and this appeared to him to be the only way in which that object could be accomplished.

The resolution was then read a second time, and agreed to.

#### FOURTH ARTICLE.

The Convention then resolved itself into committee of the whole, Mr. DENNY in the chair, and the committee resumed the consideration of the fourth article.

The question being on the motion of Mr. DICKEY to strike out the words "a majority", and insert the words "with the concurrence of two thirds".

Mr. CHAUNCEY addressed the committee as follows :

I thank the committee, for the indulgence shown to me yesterday. I know, that the debate, on what may be considered as a collateral matter, to the subject before the committee, has been much protracted, and that its fitness has been questioned by some of the members. But I entertain a strong sense of the importance and suitableness of the discussion. Certainly, it is both fit and important, that we understand correctly both our powers and our duties.

The origin of the discussion should not be forgotten. It came on, in consequence of the repeated declaration, in the form of argument, that we were bound to make amendments, and that it was expected from us by the people. That there was a portion of this body who were the friends of reform, and a portion that were not. In reply to this, it was stated, that our authority was to consider, and if we thought amendments could be made, submit them to the people ; that so complete was this authority, and the discretion existing with it, that if the Convention thought the Constitution should not be amended, it should be returned to the people without amendments.

These suggestions have led to very strong and severe remarks. It has been stated, that the power of the Convention is unlimited over the Constitution, but it is their duty to amend it, because the people have decided that it shall be amended. That this decision having been made, there is no appeal from it, no resistance of it, but by a violation of duty.

In the course of the discussion, I have had the misfortune to have my remarks misconceived, and to have imputed to me sentiments which I have not yet uttered.

It is to correct misconception, and to present my actual views, and support them as well as I may, that I again ask the patience of the committee.

I listened with attention to the argument of the delegate from Luzerne. It was open, plain, and tangible, and according to my apprehension, has presented the doctrine contended for by certain delegates, in as logical form as they have been at all presented.

The object of this argument is to establish :

1. That the powers of the Convention are unlimited, with the exception, that our doings are to be submitted to the people. In a part of this argument, it is true, that he did admit that we had this limitation of our

powers: "that we do not violate sound morals, nor contravene the Constitution of the United States".

2. That there is at least a moral and political duty on this Convention to propose some amendments. I have said, that the argument was apprehensible: I think it is fallacious.

I propose to consider both these propositions, and the reasoning by which they are sustained.

1. The powers are limited.

I take the argument in favor of unlimited powers, to be this:

All power resides in the people; of this power, it is a part to alter, modify or change their Government. The exercise of this power, in no way depends upon, nor need await any action of the Legislature. When exercised by the people, either with or without the action of the Legislature, it is supreme and unlimited.

These are general and abstract propositions, and they are thus applied to the case before this committee.

The people have put forth this power, by the election of the delegates to this Convention. To this Convention they have delegated this power, to amend the Constitution, and they have, by the delegating this power, decided that the Constitution shall be amended.

Then we have the unlimited power to amend, and the moral or political obligation to amend.

I propose to examine this argument with some degree of precision. Precision is the beauty of argument, and its greatest safeguard.

Before I enter upon the argument, I beg leave to submit some preliminary suggestions, which I hope will commend themselves to the approbation of the committee.

To change the fundamental law of the State, is the highest exercise of sovereign power.

This being stated and admitted, as it must be, it will readily be conceded by all considerate men, that such change should be made, with the greatest care and deliberation, and with the best powers of mind and attention.

Since the happy introduction of representative government, such change is effected by a delegation of power, from the people. They do not, they cannot exercise this power, but by delegation. They cannot act in mass; they cannot give entire and united expression to their sense. They therefore delegate.

I suppose it will be agreed by those who profess to be the friends of the people, that the delegation of this sovereign power must be *express*, not *implied*. It must be seen, that he who assumes to have the delegated sovereignty of the people, has it in clear and *express terms*; it is not a matter for *implication*. And the more extensive the assumption is, the clearer must be the expression.

Again, sir, those who assume to act under delegation of power, are bound to show the extent of the powers given to them. That power has been given, is not a ground of inference that *all* power is given.

I submit also in preliminaries, sir, that this delegation of the whole or a part of the sovereign power, must be made, not only in such *terms*, but in such manner, as to leave no room for mistake, as to the *act* and *intention*,



If there is a legitimate or legal manner of making this delegation, it must be presumed : for, there is no law, even for "*sovereign power*".

This is a great truth, and will be found to have a powerful application in the argument.

With these preliminary propositions, I shall endeavor, with as much brevity as I can, to place these questions in a just point of view, before the committee.

Our first inquiry is, whether the people have delegated to us their whole power, subject to their revision, or a portion of it ; and if not the whole, what portion ?

To pursue this inquiry profitably, we must further enquire, what has been the action of the people ? And here I request gentlemen to bring to the argument that precision which eminently befits it. What has been the action of the people ?

In proposing this question, I mean the *people* properly so called ; I do not mean one man, or one thousand, but I mean the aggregate mass, who alone bears, upon the principles of natural law and social compact, the right to make or to alter the fundamental law of the State. I mean, also, the majority of the aggregate mass ; for in that majority alone, according to the same great principles, is vested the right to make such an alteration.

I do not mean the small portion of any man's constituency, whose sentiments he may happen to know ; much less, sir, do I mean, those men, few or many, who always profess to know the thoughts and wishes of the people, and who claim to be the expositors of the people's will. I mean the people themselves.

I repeat the question—What has been the action of the people ?

It seems to be a subject of lamentation, that the people have been too sluggish in their action ; and, according to the history given us, they have been sluggish indeed.

For thirty years, have the friends of the people been laboring to convince them of their oppression, and to stimulate these inert Germans and Quakers into action for reform. But they were most inexorably happy and irretrievably prosperous.

At last, however, the question was put to them, in 1825, and they were too dull and sluggish to call a Convention.

The effort, nevertheless, was continued, and here we have the first matter, to which gentlemen point as action of the people. They petitioned for a Convention to amend the Constitution. This is gravely relied on as action of the people, for alteration of the fundamental law.

Let us examine it, and see on what basis it rests.

This mode of action by the people has its prescribed form and manner, by the Constitution, which is the supreme law, the law of the sovereign, until it is changed in a legitimate manner.

By the 20th section of the 9th article, this right is secured, and it is "the right of petition to those who are invested with the powers of Government".

But, sir, suffer me to ask—Is the exercise of this constituent right, whether by few or many, to be taken for action of the people ?

If it is, what is the character of this action ?

It is not the action of the people, but of individuals--and its character

is simply to ask a preparation for action by the people. It can be nothing more.

Will intelligent men say, that this is a voice to determine the destiny of the State—to change its fundamental law? No, sir!

These petitions, what are they? By whom are they, and what do they express?

We know nothing of them, can know nothing of them, but from the effect they produced upon the Legislature.

I think the people, the real people, will not bless their friends for assuming these petitions to be the action of the people.

But, sir, these petitions were not the action of the people; they express in no sense, and in no manner, the voice of the people. You have no ingredients to determine and pronounce any thing.

Are they from a majority?

Are they from a large or small, and inconsiderable minority?

Do they unite and agree in any thing? If they do, what is it?

Do they state unitedly or discordantly, the alterations they desire?

These are questions to be settled, before any rational being can pronounce upon them as expressing any thing but the wishes of the persons who have subscribed them; and that, as we all know, most imperfectly.

I cannot, then, view these petitions as action of the people, or as any thing but what they import, the desire of individuals, few or many, to have a Convention.

Allow me to ask one question. Does any man suppose, that of the hundreds or thousands that signed these petitions, there were one thousand or one hundred, that considered themselves as performing an act which was to result in a delegation of the sovereign powers of the people, to this Convention?

The Legislature rightly understood these petitions. They complied with the wishes of a respectable number of the people. They passed a law to obtain, in a legitimate form, the sense of the people, and they declared the purpose, and prescribed the mode, and with precision too. They asked for an answer to a simple question; not whether they were the friends of reform; not whether there should be a change of the fundamental law; not whether in any specified particular, it should be altered or amended; but, whether there should be a Convention, with limited powers; a Convention to examine and consider of the Constitution; and, if they thought proper, to propose amendments; a Convention to submit their proceedings to the people.

This is the fair interpretation of the act of Assembly, and no man can give it another construction.

On this act of Assembly the people acted, and of course, they acceded to it; and a majority of the votes given was for such a Convention. But there was not a majority of the voices of the voters, qualified to vote, and actually voting at the very time, expressed in favor of the Convention. It might be fairly questioned, whether this is a voice of the people.

But, we will receive it, as it was received by the Legislature, who considered it a call of the people for such a Convention as I have described; and they made provision accordingly for the election and action of the delegates.

Now, I would ask gentlemen whether this is such a foundation, as will

in honesty and fairness bear the assumption, that the people have delegated to this Convention, the sovereign authority to alter or destroy the fundamental law? I should rather think that the assumption must be considered as a real and undoubted assumption.

Let the people's act, such as it is, be reasonably interpreted, and there is no difficulty. They never meant, and have never said, that we should have the power to take down the building. They have never meant, and have never said that we should so alter the form and structure, that it should not be substantially the same beautiful fabric. They have never *expressly*, they have never *impliedly* delegated the sovereignty to us, and given us unlimited powers. But, they have conferred upon us a clear authority, in precise terms, to examine the Constitution, and to exercise our judgment and discretion, in the inquiry, whether this Constitution can and ought to be amended; and to submit our doings to them, for acceptance or rejection.

This, I have said before, is an honorable and lofty office; and I will not contrast it with that which has been assigned to us as mere automata, to act upon the fundamental law, according to the whisperings and the conjectures of those who claim to be the interpreters and oracles of the people.

Thus, then, we are brought back to the act of Assembly, which gentlemen have represented as the necessary foundation of our existence and of our action.

I cheerfully submit the question to the committee, whether they can, upon these views, consider this Convention as possessed of powers *unlimited* over the Constitution?

I am aware, that this discussion may be considered as of little importance, because no man may dream of the exercise of any extraordinary power; but, sir, the power is claimed, and it may be of the utmost importance in our future proceedings, that our estimate of the powers should be just.

2. There is another position, which has had currency in the opposite argument, which is, that there is a moral and political obligation upon this Convention to make amendments to the Constitution.

This is an argument in favor of the adoption of *some*, or of *any*, or of *all* proposed amendments.

It is said, that the people were determined that the Constitution shall be amended: that this is no longer an open question: that we ought not—nay, that we dare not, return this Constitution unamended to the people; and that should we do so, after the expression of the people's will, after the trouble that has been caused and the expense which has been incurred, we should be a laughing-stock for creation. Sir, I cannot agree to these sentiments, or any of them. I will endeavor to test the soundness of them, by an application of plain common sense.

We have already inquired into the character of that sense of the people which has been expressed. And, I trust, we have seen to demonstration that there has been no action or expression of the people of this Commonwealth that their Constitution shall be amended.

And here, sir, I claim, that the argument become precise.

The gentleman from Luzerne, and other gentlemen, have said the people have decided, that there shall be amendment. I propose to those who

affirm this, that they answer and say *when* and *how* did the people decide this? Did they decide what amendments should be made?

If the answer be, as to the when and how, by the votes given on the general question, I reply nay, and I have already given my reasons.

If the answer be, that the amendments have been suggested by oral communications, by petitions, by the press: I reply—show me all this to be substantial; show me that all this is agreed to, united in, and of such extent as to desire consideration, as the voice of the people; and show me then what amendments have thus been agreed upon and united in by the people.

Let us not, here, in this solemn assembly, be the dupes of idle words—or words, without meaning, but to deceive. Let not the cry or the shout of reform, dazzle the imagination, or bewilder the judgment of sober-minded men.

This is too plain a matter for sophistry to pervert. The people have chosen us and sent us here, as rational and honest men, to examine and decide for them, whether this Constitution may, or ought to be amended. They have committed this great subject to our judgment; and they expect, that every man will do his duty.

I cannot now foretell what is to be the result of this great work. I come to it, not only without a pledge or a promise, but without the expression of a *single* wish, on the part of my immediate constituents. They confide this subject, so far as they are concerned, to the honest judgment of my colleagues and myself; nor could I consent to come here upon other terms than those.

I am free to declare, that I come to the work with special reverence for the Constitution. I have carefully examined, compared and reflected upon it. I have already expressed my opinion of its excellence, and intrinsic merit. But, sir, I also revere it as a Constitution: and the reasons must be powerful, that will induce me to vote for alterations. I ask you patience for a moment, whilst I explain my meaning. I consider the Constitution of this land as the real security of our free institutions, and the virtue, and even existence of their Constitutions, as depending upon their permanent and abiding continuance. The Constitution is the supreme law. It is the great controlling power, and preserving principle of the system. It deserves to be, and ought to be considered as holy—as sacred—as not to be touched with inconsiderate or unclean hands.

Let your Constitution be easily handled, and it is reduced to simple legislation; and then, sir, it will be humbled beneath it.

It is upon this ground, that I feel myself justified in saying, that I shall regard all proposals for amendment with great jealousy. If they are *material* amendments, I must be satisfied that they are demanded by the real interests and welfare of the people—and the evidence of this must come to me in some better form, than in the shout of those who cry “hosanna to-day, and crucify him to-morrow”. If they are *immaterial* amendments I should hesitate to receive them as not being worth the violence done to the sacred nature of the Constitution, by unbecoming and unprofitable familiarity.

Sir, I differ widely from the gentleman from Susquehanna on this interesting point: so far, in my view, should we be from being the laughing-stock of creation, if we could send this Constitution from this Hall to the

people, after honest and faithful scrutiny, unamended. Pennsylvania has brilliant marks in her escutcheon; but this would be the proudest of them all, if she could add—that her Constitution, formed by her wisest and ablest sons, after being the procuring cause of unequaled prosperity and happiness, passed the ordeal of an honest, intelligent, and faithful scrutiny at the end of fifty years, and was transmitted to future time with the heartfelt eulogy of a grateful people.

Mr. SELTZER said, the subject of discussion was the impeachment of public officers, and he understood the question *now* under consideration, was the amendment offered by the gentleman from Beaver (Mr. DICKEY.) But I believe, said he, that nearly all the arguments contained in the speeches which have been delivered during a period of five days, have related to the appointing power of the Governor, and the powers of this Convention. I shall, therefore, appeal to the intelligence of this Convention, and follow the example of those who have spoken before me on those questions. During the last five days, I have heard a great deal said as to the number of votes which were polled *for* and *against* a Convention, and it has been said, that as a majority of the people in some counties were opposed to calling a Convention, it is evidence that they are opposed to any alteration in the present Constitution. I am of a different opinion on that subject. It is true, as has been stated by my colleague, (Mr. WEIDMAN) that the county of Lebanon, in which I reside, and which I have the honor, in part, to represent, gave but 437 votes in favor of a Convention, and 2032 votes against it, so that there was a majority of 1595 votes against calling a Convention, and no doubt there were at least one thousand who did not vote at all. The reason why so large a portion of the people of Lebanon county were opposed to calling a Convention (and I presume the same feeling operated throughout this Commonwealth) was, they thought it a dangerous experiment in a time of great party excitement, being apprehensive that the Constitution, which had remained unaltered for a period of forty-seven years, might be converted into a mere political machine, instead of being carefully revised and amended. After a majority of the people of the state had voted in favor of calling a Convention, they acquiesced, for it is presumed that “silence gives consent”. The next step was to elect delegates to the Convention for the purpose of revising the Constitution, according to the wishes of the people, and submitting amendments to them. I would ask, Mr. President, have we met here for the purpose of submitting the *same* Constitution again to the people, as they have submitted it to us, and *without amendment*, as is advocated by some gentlemen on this floor, who have said that it is good enough—needs no improvement, and therefore we must not touch the “matchless instrument”, because it has existed for forty-seven years. The gentleman from the city of Philadelphia, (Mr. CHAUNCEY) and my colleague (Mr. WEIDMAN) have stated that the present Constitution is a good one. I have no doubt that it is so, but I cannot agree with them that it is a “matchless instrument”. Perhaps, at the time it was framed, they could not get it better. I admit, said he, that we have enjoyed prosperity and happiness under the present Constitution—but will any one tell me that this is in consequence of its defects, and that therefore it needs no improvement? Do we not witness the progress of improvement in every thing around us? He who created the earth, which we inhabit,

pronounced it "very good"—the soil in its native State is also "very good", yet it is improved by toil and proper culture. I am of a different opinion from those who think the Constitution needs no amendment. I candidly believe that amendment is desired, and expected by a large majority of our constituents throughout this Commonwealth. They desire to have the Executive patronage curtailed, and the county officers to be elected by the people. They also desire the abolition of the life tenure of office. Let such as now hold their offices for life, or during good behaviour, be appointed by the Governor, by and with the advice and consent of the Senate, for a term of years. Let the President Judges be appointed for a term of seven or ten years, and the Judges of the Supreme Court for a term of twelve or fifteen years—to be re-appointed, provided they discharge their duties with fidelity and impartiality. Let the Governor be ineligible for more than two terms in succession. Let the State Senators be elected for a term of two, or the most, three years. The meeting of the Legislature should be on the second Tuesday of January, unless sooner convened by the Governor. I am fully satisfied that such amendments as these, will be acceptable to a large majority of the people of this Commonwealth. If I am in an error it is of the head and not of the heart. I therefore, Mr. President, wish it to be distinctly understood that I shall support such amendments as I have mentioned, which I desire to see engrafted in the Constitution—and I shall oppose all visionary and untried projects, by way of experiment. I shall only advocate such amendments as I believe are salutary, and will be acceptable to my constituents and beneficial to the rising generation. Some gentlemen have told us a few days since that life offices are not aristocratic. If they are not, I do not know what is. I believe the people would be better satisfied if the Judges were placed within their reach. It has been stated that this would destroy the independence of the Judiciary. I think not. For if a Judge is not independent, when appointed for a term of years, he would not be independent if appointed for life. A Judge ought to fear God and not man—and such men as do, are always independent and upright. If such men, who *alone* are fit to fill the station, are chosen, they will discharge their duty faithfully, whether the term of office be long or short—and if unfit men are selected, the shorter their term of office is, the better. I have heard some very learned speeches by the gentlemen from Philadelphia (the PRESIDENT and Mr. CHAUNCEY) who remarked that the number of votes given for the candidates for Governor, was 40,000 more than were given for and against a Convention. I admit it, but I believe, that if the amendments I have mentioned, had been proposed to the people at that time, the whole of these 40,000 would have voted for them. I have no doubt, that if these amendments shall be submitted to the people by this Convention, they will be adopted by an overwhelming majority. My desire is to have these amendments couched in language so plain that all can read and understand them, and I therefore think we had better proceed directly to the deliberate consideration of such amendments as the people anticipate, and there is no doubt that the people will sustain us. But if we shall propose to them wild and visionary projects or experiments, they will reject them. Long speeches have been made about the powers of this Convention, and some gentlemen speak as if we had no power to amend the present Constitution. Sir, I believe that what power



I possess, has been delegated to me, by those who elected me, and the whole power rests between my constituents and myself. If I abuse their confidence they will correct me. I shall, therefore, in submission to their will exercise my own judgment and discretion, as to power over those subjects which claim the attention of this Convention.

Mr. PURVIANCE, of Butler, said, that on account of the wide range the debate had taken, and the great and unnecessary consumption of time which had been occasioned by the latitude of discussion, he had felt almost constrained, a few days ago, to submit a resolution which would ascertain the sense of the Convention, as to whether any amendments were intended to be made, or not, in the present Constitution. He felt impatient, that after three weeks session, no question had yet been taken on any proposition, in which the people had manifested an interest. He had listened to various speeches from the most distinguished members of the body, of which he (Mr. PURVIANCE) was but an humble member, and was not a little surprised to find that amongst the talent and distinction of the Convention, doubts were entertained of the extent of our delegated powers. The gentleman from the city (Mr. CHAUNCEY) had originated this question of power—a question *dehors* the record, and not in the least connected with the subject under consideration; but from the high source of its emanation, it has become the text of several days' commentary, and necessarily now claims the regard and consideration of the members generally. If I mistake not, (continued Mr. PURVIANCE) I understand that learned gentleman to say, that the people have, at no time, voted in favor of an alteration of the existing Constitution. Sir, the vote of the people for a Convention, was a clear and explicit decision of the question.—Every vote in favor of the call of a Convention, was equivalent to a direct vote of the people that the Constitution should undergo alterations and amendments. Every citizen who voted in favor of the call, thereby indicated his desire that the defects of the present instrument should be remedied; and in pursuance of that desire, declared themselves for a Convention, as the only legitimate mode of having amendments presented to their consideration. Can it be said that any one who voted in favor of a Convention, was against any and all amendments? Certainly not; as this would pre-suppose, on the part of the people, an entire ignorance of their fundamental law.

On the other hand, it does not follow that those who voted against a Convention were, of necessity, opposed to all alterations. Fear, operated with some, and the constant apprehension of danger stimulated others in their opposition to the primary measure, which can have no influence with them now, in passing upon judicious amendments, when such shall be made and presented to them for ratification. And whilst on this branch of the subject, I would refer to the argument of another distinguished gentleman from the city, (Judge HOPKINSON) that the forty thousand votes which were not polled were to be considered as indifferent on the subject. I take the concession of the learned and venerable gentleman, that such was the case, and then appeal to him to say whether such indifference on a subject of such vast importance, does not argue a degree of willingness, however small it may be, that a Convention should be called. I think it is fair to argue that, if any portion of these 40,000 were either well satisfied with the present Constitution, or very hostile to the holding of a

Convention, from apprehensions of the dangerous extent to which they might be carried, they would have manifested these feelings in the manner pointed out by law, by voting against the call of a Convention. Sir, it seems to be agreed, on all hands, that these delinquent voters were upon the election ground, and from some reasons unknown to any but themselves, declined the exercise of a most invaluable privilege, on this most important occasion. Apply to these voters the principle which is applied to almost every transaction of life; and they would be justly claimed as having given their assent to that which they were unwilling, by the present means to avert. I refer to the principle spread upon your statute books, and which is to be found amongst the decisions of your courts in the last resort. A vested right, the title to reality, may become divested forever by the silence of the owner, under particular circumstances. The owner of a tract of land who is present at a judicial sale of his property, or the property of another, and who remains silent, loses forever the best right which can be conferred by any Government. The same principle runs throughout almost every other proceeding: the law provides the formula of notice, &c., which, if not attended to, operates to the prejudice even of the best vested right. This principle, sir, is founded upon the legal presumption that he who withholds his assent, having full notice of the proposition, is to be considered favorable, and not hostile to the measure proposed. Apply then, this principle to the delinquent votes, and you have instead of thirteen thousand of a majority for a Convention, upwards of fifty thousand. This argument cannot be restrained in any other way, than by that suggested by the gentleman from the county, not now in his seat, (Mr. EARLE). Restrain it as you may, and it will still have to be received as *prima facie* evidence of their willingness, that a Convention should be held. But, sir, if any thing were wanting to carry this argument out, and to maintain the position I have assumed, the representations made by the gentlemen from Berks, Centre, and other counties, opposed to a Convention, should be sufficiently satisfactory.—They state that in some of the counties, the ticket in opposition to them was pledged against reform of any kind; and yet in the county of Berks, the gentlemen on this floor, who are friends of an alteration, were elected by three thousand four hundred of a majority.

The gentleman from the city (Mr. CHAUNCEY) has further said, that the people were sluggish on the subject of reform. Sir, from the county which I have the honor in part to represent, a petition was presented by our then representative, some years ago, to which, if I mistake not, the names of near fifteen hundred citizens of our county were appended, calling for the very reforms so much desired by myself, and such as I believe will be ultimately fixed upon by the Convention, as the reforms proper to be presented to the people. About the time referred to, a number of the counties of this Commonwealth called a Convention on the subject of reform, in which I had the honor of a seat with delegated power, to wit: To urge upon the Legislature of the State, the necessity of providing for the call of a Convention, that certain alterations might be made in the present Constitution—and, sir, with regard to those alterations, I think I can say, without hesitation, that I am fortified by a knowledge of their wishes, derived from intercourse and interchange of opinions on the subject. Their wishes accord with my own, and yet I do not conceive

that this could affect the relative position we occupy as members of this body. I agree with the respectable gentleman from Susquehanna, (Mr. READ) that we ought not, and in fact cannot, adjourn without giving to the people the amendments they desire. We are delegated to propose amendments to the Constitution, and a majority of the whole people have said, that such is the specific duty assigned to our care. I was not a little surprised to hear the doctrines of the gentleman from Lebanon, (Mr. WEIDMAN) that because the counties represented by him were opposed to a Convention—he is but carrying out their instructions in opposing all reform. I ask that gentleman whether he is not now the representative of the whole State, and bound to carry out the views of a majority of its voters? Suppose a majority of the people of the State had, in any way, by petition or otherwise, expressed themselves favorable to a certain amendment, I would ask the gentleman as well from Lebanon, (Mr. WEIDMAN) as from the city, (Mr. CHAUNCEY) whether they would not conceive themselves bound to carry out the views of a majority of the people. Sir, I so far hold to this doctrine, as to believe that if a majority of the people of Butler county had been against a Convention, and yet a majority in the State for it, that I would have been bound to carry out the views of the State; otherwise a large majority of the people of the State might be thwarted in their views of public policy by a minority. Suppose, sir, that a number of counties send a majority of delegates to this body, and that in these counties a small majority is to be found against reform, and the remainder of the counties having a minority of the representatives here, should have given fifty thousand majority for a Convention, cannot the gentlemen readily perceive, that if the delegates from such counties were to adopt the views of the gentleman from Lebanon, the will of a decided majority of the people could be entirely destroyed? I cannot believe in such doctrine. I call upon the gentleman from Lebanon (Mr. WEIDMAN) to examine his letter of attorney, and he will find that instead of being signed by his own constituents, it is signed by eighty-five thousand freemen—and that instead of authorizing him to oppose amendments to the Constitution, it specifically empowers him to propose amendments to that instrument. I am happy, sir, to find the colleague of that gentleman (Mr. SELTZER) who is from the same county, differing with him in opinion on the great subject of reform, and on the question of our respective duties and powers.

Sir, I will add a few more words, and I have done. Much has been said about the present Constitution being approached with solemnity. To some extent I may appreciate this reverence for that which is old; but when I advert to the causes which produced the parent Constitution, that reverence in some measure abates. The Constitution of 1776 embraced a principle providing for its amendment through the intervention of a Council of Censors, two thirds of whom were to concur in the call: this number could never be obtained, and the Legislature afterwards, without authority from the people, provided for the call of the Convention of 1789—'90, without obtaining a previous expression of public sentiment on the subject. They changed the Constitution of 1776, but never submitted it to the ratification of the people? By a mock ceremony called a procession, they proclaimed it to be the fundamental law of the land. A procession embracing within its ranks the Constables, Sheriffs, Register of

German Emigrants; the Excisemen, &c.; and by this solemn mockery, proclaimed that they had thrown off the Constitution of 1776—a Constitution which limited the term of the Judges, provided for the election of Justices of Peace, and in many other respects essentially conformable to the views of the people at the present day. The people can and will, without being chargeable with a fondness for innovation, bring the present Constitution in some respects, back to that of 1776.

Mr. FORWARD would make a remark or two. Gentlemen would recollect that in the outset of this debate he had stated that he could not discover the relevancy of the question, or the utility of discussing it. He did not, then, perceive the space by which gentlemen on the opposite side of the question were separated from those on this. He then thought, and he still believed, that the dispute was more about words than any thing else. What, he inquired, were the propositions on each side of this much litigated question? On the one hand, there were members of the Convention who claimed the right of free, unrestrained deliberation, and the right to act according to the will of their immediate constituents—the right to decide without compulsion, upon a free exercise of their own judgment and consciences. They asked for nothing more than that. But, what was the proposition on the other hand? Why, it seemed that we are to be troubled with a question of power. It was urged that there is a vast power in this body—a sort of circumscribed omnipotence—if we might use a solecism here. And, we were not to forget, that power was to be used at all events. Now, let us look at it. The gentleman from Susquehanna (Mr. READ) had placed it in a stronger view, perhaps, than any other gentleman. And, what did he say? Why, that we had all the power of the people, except the single reservation that they are to approve or disapprove, or ratify, or not, as they may think proper, the Constitution as amended, by this Convention.

Now he (Mr. F.) would put it to the discriminating mind of that gentleman, and of every gentleman who heard him, whether it was not a surrender of the whole power. We have no sovereign power. None at all. Why? It will combine—it will constrain—it will act definitely. All the power that the Convention had, was that of deliberating and deciding, and expressing our own judgment and submitting whatsoever we might do for the approval of the people. Suppose that the people should not respond to the proceedings of the Convention—were to refuse their assent to what we might do, in what a predicament would gentlemen be placed? Why, they would, as the gentleman had observed, be the scorn and the laughing stock of the whole world, if they were to adjourn without doing any thing.

Did gentlemen suppose that the people had sent us here under a mandate to act, and that they were so ridiculous and absurd, as to reserve to themselves the right to affirm or disaffirm, and yet not allow us to express our deliberate opinions? The gentleman from Butler (Mr. PURVIANCE) had said, that he would not consider himself bound by the immediate will of his constituents, if a majority of the people of Butler county had been against making amendments to the Constitution, and a majority of the State had been favorable to it. Why, what did the gentleman mean by amendments? There were gentlemen in that Convention, opposed to making amendments, who were satisfied with the Constitution as it is,

Were those gentlemen to be heard here? Had they the right to speak? Suppose that a majority of 10,000 only were in favor of amendments to the Constitution, it would be the duty of every delegate to listen to the arguments of every gentleman present. But the lips of the minority were not to be sealed. They did not come here to be restrained in their judgment, or be obliged to assent to every thing that should be done. Why should any man come here to do that? He might as well, nay better, remain at home, if he was not to be allowed to act according to his own judgment, and the dictates of his own conscience. He (Mr. F.) felt, in reference to his constituents, bound in an especial manner to carry out their will even should it be in hostility to the interests of the State. He had a right to represent their wishes, and they were justified in demanding to be heard on this floor. He would ask gentlemen to submit a proposition to the Convention, to which he was not at liberty to dissent. He desired to hear it. Was it to be said that a portion only of this body were at liberty, and had a right to express their opinions, as to what might be done by it?

This was, indeed, a dangerous doctrine. He wished to hear all that could be said on both sides. Were members not at liberty to debate? That was the question? Suppose, in advance, that it was contended that inasmuch as the minority of the Convention were against reform, they had no right to deliberate. That the constituents through their representatives (though in a minority) had no right to be heard. Would that be right, just or proper?

There might, however, be some mistake in regard to the matter. Two thirds of the delegates might be in favor of reform of some kind, and two thirds might not agree to any.

There were, perhaps, ninety sections in the Constitution of Pennsylvania, and supposing a portion, say 2,000 or 3,000 of the people were in favor of one, whilst others were in favor of a different one—were gentlemen here to resolve to vote only for some particular amendment, and thus create a division, which would result in the adjournment of the Convention without having effected any thing? He hoped not.

Now, with regard to making amendments to the Constitution. In some parts of the State, amendments would be acceptable to the people—though not in his particular district. With respect to a change being made in relation to Justices of the Peace, the people whom he represented were in favor of it; but he knew some who were opposed to it. His constituents were against restricting the tenure of the Judges of the Supreme Court. He contended, that the people were divided in opinion as to the extent of the reform that should be made. Their minds were not made up in favor of any particular amendment. It was quite evident that the people regarded amendments to the Constitution, as subjects for consideration and deliberation, and nothing more. The members, then, of the Convention, were delegated to meet together as the agents of the people, for the purpose of investigating and discussing the various subjects in reference to which it was proposed to make amendments or alterations in the Constitution. They were to use their best judgment and discrimination in proposing amendments. They were not to act definitely—not as exercising any portion of the sovereignty of the State—but were to submit their acts to the vote of the people.



That being the true state of the question, would it be pretended by any body that there was any constraint on any delegate here? That there was any portion of the people not entitled to be represented and heard on this floor? Was it said by any one that we (said Mr. F.) have no right to propose amendments? Certainly not. No one denies that we have a right to propose such amendments to the Constitution as we think will meet with the approval of the people generally.

Does any one say that we are compelled to propose amendments? We come here for the purpose of deliberating upon them, and may submit them or not as we please. The dispute was one of mere words. He was willing to avow himself ready and determined to vote against any amendments which he did not think expedient and proper.

Mr. BONHAM, of York, perfectly concurred, he said, with the gentleman from Allegheny as to the powers and privileges of this body. The law providing for the call of the Convention was plain and simple in its terms, so much so that he who runs may read it. The last act says, that an election shall take place, "for the choice of delegates to a Convention to submit amendments to the Constitution of this State to the vote of the people thereof". The first act provides for ascertaining the sense of the citizens of this Commonwealth on the expediency of calling a Convention of delegates to be elected by the people, "*with authority to submit amendments* of the State Constitution to a vote of the people", now, no one can say that we are compelled by these acts to submit amendments. We have authority to submit amendments, but we are not directed to submit them. But the greater number of this body was, he trusted, in favor of exercising the power thus given them, by submitting some amendments. He could not see, then, to what purpose this discussion was prolonged, or why it had been suffered to take so wide a range. He had, for some days, heard a great deal of talk, and, in his opinion, much small talk, on this subject, which appeared to him to be of a plain and simple character. For his own part, he was anxious to get along with the business in a regular way. He wished to get through with it, without unnecessary delay, in order that he might return to his family. It was generally agreed, as to the fourth article now under consideration, that there would be no amendment to it. Probably four-fifths of this body were opposed to the amendment reported by the majority of the committee. He could not agree with his friend from Butler, that we were bound to propose amendments to the people, in any event. It might be possible, that, when we took up the several articles of the Constitution in order, some gentlemen might vote against any amendment to the first article, and yet go for an amendment to the second article—and so on, through the whole Constitution. In this way, although every member might be in favor of some particular amendments, yet it might so happen that there would not be a majority in favor of any one amendment. He did not see how we should be required, in such a case, to make amendments or to submit them.

He believed, however, that it was the wish of all to make some amendments, and that we could agree upon those that were chiefly desired by the people. He concurred with the gentleman from Philadelphia, (Mr. CHAUNCEY) that we should proceed deliberately in this matter; but he had heard but one opinion expressed as to the disposition of a majority of the members to submit some amendments. He hoped there would ulti-



mately be much unanimity of sentiment and action here, and there was great reason to believe that there would be. It had been a subject of congratulation with many that the delegates were so nearly divided into two equal parties, and it was still hoped that this circumstance would be found favorable to harmonious action, and enable us soon to close our labors, and present to the people, for their ratification or rejection, such amendments as might be of a salutary nature. It was believed that every member had made up his mind in regard to his course on the question before us. Why, then, he asked, should we continue to waste our time on this discussion? Why would not gentlemen consent to leave this subject, and proceed to act on some of the amendments proposed? It was much to be hoped that we would be allowed to go on, and effect our business, without pausing so long on the way, and wasting our time in fruitless discussions. There were, he said, on our files about eighty resolutions, and if we spend as much time upon each one of them as we have upon this subject, their consideration would occupy us two or three years. He had been a good deal surprised at the wide and boundless range of discussion taken here, and he was sorry that some check had not been imposed upon it by the chair; but he trusted that, hereafter, we should go on with more system and not be drawn off and delayed by questions so irrelevant in their nature to the business immediately before us. A great deal had been said here about the counties that were in favor of reform, and the counties opposed to reform, and the votes of different counties on the question of calling a Convention. In his own county, only two hundred and twenty three voted for the call of a Convention, and three thousand two hundred and thirty-eight against it; but this had not convinced him that they would be opposed to all amendments. He had heard but one sentiment after the election, and that was, that some changes were expedient and proper. One view, taken by the people in his county, was, that the appointment of county officers, of the Prothonotaries, Registers, Recorders, Justices, &c.—ought to be given to the people; and that this mode of appointment would relieve the Governor from great anxiety and labor, and be more satisfactory to the people. The people of the commonwealth, generally, were, he believed, in favor of some moderate and judicious reform, but not of uprooting the Constitution entirely.

Mr. STERIGERE—Mr. Chairman, after the long debate which has taken place on this subject, in which almost every thing, except the real question, has been discussed, and so much impatience manifested to put an end to it, I do not expect the attention of this body. It may seem presumptuous in me to enter the arena, in opposition to the able and distinguished gentlemen who have addressed you, and I do not expect to successfully combat their positions. Nor have I the vanity to believe that any argument I am able to present to him, will overturn the conviction of any gentleman here, or change a single vote. I believe the mind of every member is fixed. I do not, therefore, rise, expecting to convince any one, but to give my reasons for the vote I am about to give, and to justify myself to my constituents; for I take it for granted, that all the long speeches we have heard, are addressed to the people at home. Sir, I think it requires no prophet to foretell the result of our deliberations. If I correctly read the signs of the times, the proceedings of this Convention will end in nothing, or nothing that will satisfy public opinion in

reforming the Constitution. It seems to me that the *majority* have determined that no amendments shall be proposed.

I belong to a party which, ever since this question of reform has been agitated, has been stigmatized by the opposition, as radicals, and by other opprobrious epithets. I am one of sixty-six members of this body, who, on this floor, have been daily denounced as radicals, by way of derision, and frequently referred to in terms disrespectful and offensive, by our opponents. I am opposed to the party in this Convention, who call themselves conservatives, and out number us by one single vote. I came here with a disposition to yield as much of my individual opinion, as could be reasonably asked of any man, to enable us to transact our business harmoniously, and satisfactorily, and to secure as great a degree of unanimity as possible, in favor of the amendments we might deem it advisable to propose; and I had hoped we should have commenced our proceedings in such a spirit of compromise, as would result in some good to the community. But in this I was disappointed. When I got here, I found that the sixty-seven had been rallied by a public notice under the anti Van Buren flag; and ever since all their movements have been of a party character. Almost every question has been settled by a party division, and it appears to me this Convention is to be divided on questions of amendments by the same party lines, the radicals for amendments, and the conservatives for the old constitution, and of course against amendments. The committees appear to have been formed upon this principle, and their reports seem to indicate that nothing is to be done.

For two weeks this body has been engaged in discussing this question. Soon after its commencement, the whole character of the debate was changed by a prominent leader on the other side, by introducing topics foreign to the question at issue, and thus carrying us out to sea, where we have ever since been floating about, without compass or rudder, and have not been able to get back again. For what was this done or designed? Why, sir, to enable the leaders, by the kind of debate we have witnessed, to mature and fix the minds of the majority against any action. To that purpose it seemed to tend, and was meant to tend. We have scarcely heard of the question to be decided, since the discussion began. It has been so entirely forgotten, that the gentleman from Adams, after replying to the arguments he had heard, on being informed by the Chair what the question was, replied he had nothing to say about that.

Other means have been resorted to, to render the question of reform and the conduct of the sixty-six unpopular. In speeches on this floor, the amendments proposed by one of the most distinguished members of the Convention, have been compared to the "harangues of raw Irishmen in town meetings" and "inflammatory declamations";—denounced as "documents calculated to produce disorder", and which "dishonored the principles of politicians from the wilds of Missouri"; as worse than the "wildest schemes of the maddest and most chimerical projects", and "suited only for the JACK CADES of the polluted purlieus of a city"; and as "dreams and vagaries of scheming politicians". This course, in this Convention, has been followed up by the newspapers opposed to reform, and backed by letter writers. These things are all meant to forestal public opinion, and intended to bring into contempt and ridicule the propositions and pro-

ceedings of the party in favour of reform, as well as all amendments to the constitution.

[Here the Chairman, Mr. DENNY, interfered, and said it was out of order to introduce any thing not before brought forward in debate, and that the gentleman must confine himself to the question, or to the arguments before made,]

Mr. STERIGERE resumed: 'The gentlemen who have preceded me, have talked about almost every thing except the question, and I will defy the ingenuity of man to suggest any subject of debate or course of debate, more out of order than this discussion from the beginning. The only way to get out of order would be to say something about the question. I have the same right to introduce new subjects and arguments as those who have preceded me.

[The Chairman again interfered, and said the gentleman must confine his remarks to the arguments before made, and could not introduce new subjects.]

Mr. STERIGERE continued: It seems strange that after allowing the latitude of debate which has been taken, I should be precluded from the same course. I still think I have an undoubted right to follow the example which has been set by others; but as the Chairman has decided I shall not, I will submit, and refrain from the remarks I had intended to make, which are excluded by the restriction imposed upon me.

Most of those who have preceded me, have abandoned the simple question before the chair, to wit: whether two-thirds, or only a majority, should be required to convict on impeachment, and have entertained us with long and learned speeches on the powers of this Convention, and our right to sit here, about which there have not been two opinions. Although able, it seemed to me to be an uncalled for and useless debate. If any gentlemen had taken up their hats, and were about to leave us, such arguments might have been addressed to them with great propriety. But there has been no evidence of such an intention, nor was it material to decide whether we assembled by virtue of a vote of the people, or of the Legislature. We are not here in opposition to either; but by the vote and consent of the people, and of the Legislature, and by our own consent. I confess I was a little alarmed the other day, when the gentleman from Lebanon (Mr. WEIDMAN) proclaimed himself the representative of 800,000 citizens of this Commonwealth; for if that was correct, many of us had no right to seats here; and I was particularly startled at his putting old Montgomery in his breeches pocket with the other counties which had given majorities against the call of a Convention.

It is conceded on all hands, that we have no authority but to propose amendments, to be revised and adopted, or rejected by the people. It has been agreed by the people, the Legislature, and ourselves, to assemble for that purpose, and no other. If we were to take upon ourselves to make amendments, or establish a Constitution, without submitting it to the people as the Convention of 1790 did, it would be an usurpation. Although complaints against the Constitution have long ago been made, and a large portion of our citizens have been in favor of alterations, as a body, the people heretofore preferred enduring these evils, rather than run the risk of having a worse Constitution imposed upon them. They have been importuned to consent to a Convention, and have agreed by their represen-

tatives, that if a majority consented thereto, a Convention should be held to deliberate on amendments supposed to be necessary, and afterwards they would take the matter into their consideration. They have sent us here to deliberate, consult, and advise together, and give them the result of our judgments, reserving to themselves the right to take our advice or reject it, after they heard what we had to say on the subject. This was the sum and substance of the matter.

I apprehend, that by no vote given by the people, have they decided on any specific amendment, or given instructions about any. This is a matter about which no instructions could be given, or sentiment expressed until the specific amendment is submitted; and hence they have reserved the right to revise and adopt, or reject what we do, which is safer than instructions. Still it is impossible any gentleman can be ignorant of the public opinion in his district, in relation to amendments generally, by which he may regulate his votes. This Convention has no power to bind or control the people, by any amendments they may propose; but they have the power to control the public will, by *refusing* to submit any amendments for the consideration of the people.

When I accepted the trust with which I have been honored, I felt it to be a difficult and responsible one. This was much lessened by the reflection that what I might do, would not be binding on the people, until approved by them. Under these circumstances, I will go further than I would do if my acts were not to be submitted for revision. I think I cannot be much mistaken in public sentiment on this matter in my own county, and have some knowledge of it throughout the State. The public sentiment in favor of several material changes is very general; and I am much mistaken if the small matter proposed by the gentleman from the city (Mr. HOPKINSON) will be considered satisfactory.

The rule I have laid down for myself in recommending amendments, is to agree to such only as I believe right in themselves, and would approve if I were always to be in the majority, always in the minority, always in office, or always out of office, and the humblest individual in the State: I know no better guide.

The article of impeachment, now properly under consideration, applies to "the Governor, and all other civil officers under this Commonwealth"—persons holding offices during good behaviour, as well as those holding for a term of years. The question, so far as it has been argued at all, has been argued as respects judicial officers *only*; and perhaps properly. There has been no attempt to impeach any other officer under the present Constitution: as to such it has been a useless provision: their short terms of office has kept them entirely under the control of the people. As to the judiciary, I confess I think it might be dispensed with altogether, as another part of the Constitution provides for the removal of Judges and Justices. This is unnecessary as a remedy, or means for *removal*. It is unnecessary for punishing for criminal conduct in the officers. We should not impeach in order to punish for misdemeanours in office, but punish these offences like other offences against the law. This article has always been resorted to for the mere purpose of removal.

This proceeding is not of American growth; it is borrowed from the British Constitution. We have taken this article from the Constitution of the United States, and incorporated it in our own, without any neces-

sity. By the Constitution of the United States, the officers who do not hold at the will of the President are removable *only by impeachment*. There is no removal by address of the Legislature, as in Pennsylvania. In England, as well as in the United States, the tribunal of impeachment is the strongest branch of the Government. It was confided to that branch under the idea that the ordinary courts of law and juries would be too weak for the trial of great offenders. This is not the case with us now, and as the reason for this article has ceased, the article should be abolished altogether.

If, however, we retain this clause, we should make it of some practical utility, by requiring only a *majority* for conviction. I have heard no reason for requiring two thirds. This is not founded on any hostility to the judiciary. I am as warmly attached to that department as any man. It should be dear to us all. The operations of no branch of the Government are seen and felt so much. We are all interested in throwing a shield around it for its protection. It is the sheet-anchor of all our rights, liberties and property.

I am, also, in favor of an *independent* judiciary, in its proper sense. This, however, does not depend on the tenure of the Judge or his liability to removal and punishment for misdemeanors in office. It depends on the character of the man. The principle must exist in the soul. Independence in a judge, is a conscientious discharge of his duty, without fear, favour or affection. Tenure can neither create nor take away, independence in an officer. Some men could not exercise an office independently, if placed beyond the control of the people, and above the Constitution and the laws. While others would do so if the office was held on a monthly tenure. Most of the officers of this State hold their offices for a short period, and have shown quite as much independence in the discharge of their duties, as those who are appointed during good behaviour. The present Governor of this State, is an instance to show that the term of office has nothing to do with the independence of the officer. He holds his office for three years, yet he has shown a remarkable independence in the exercise of his duties; and, in my humble opinion, a little too much independence.

I listened with much attention to the remarks of the gentleman from Bucks, Mr. M'DOWELL, on this subject. I think his arguments remain unanswered, and are unanswerable. So far, this provision has been a dead letter. Was it designed to be so by the framers of the Constitution of 1790? If it was, it has entirely answered the purpose. It has been a dead letter, because two thirds, an unreasonable majority, are required for conviction and removal.

We have been told this article worked well; that no judge has been acquitted who ought to have been convicted; that there is no dissatisfaction with this provision: no complaint about this article. So far from this being correct, it has not worked at all. There has been but a single conviction for near fifty years, although impeachments have been numerous. This has been the source of more dissatisfaction and complaint, than, perhaps, all the other provisions of the Constitution. From what has the anxiety to limit judges and justices to a term of years, which pervades the whole State, arisen? From the difficulty, nay, *impossibility*, of getting rid of bad officers under this two thirds system. The people wish some

remedy, and that of limiting the judicial tenure, by an amendment to the Constitution, has presented itself to them as effectual. This has been the chief desire in many places, for desiring a Convention. I admit, a large portion of the community desire other grievances removed; but they would have been borne a while longer. I have no doubt a much larger number of the people, than the majority in favor of a Convention, were induced to vote for it, for the reasons I have mentioned. If bad judges could have been removed by a majority, I do not believe we would now be assembled in Convention. Impeachments and trials of judges in this State, have been a perfect farce—a mere mockery. I have witnessed several of them myself, and taken part in some of them. There have been too many instances in which the petitions, remonstrances, complaints, and proof presented by the people against their judges, have been entirely disregarded and set at defiance under this article—and the judges, with blackened and stained characters, which rendered them unfit for their stations, been sent back to wear the ermine, administer the laws of the land, and deal out justice among a people whose confidence they had lost, and among whom the judiciary of the State was thus brought into disgrace.

Are such things calculated to secure the regard and affections of the people for their Government? The best mode of securing these, is to afford the people an easy mode of ridding themselves of bad officers. It is of more consequence that public confidence in our judiciary should be unimpaired, than that a judge should escape.

I am, therefore, in favor of conviction and removal on impeachment by *a majority*. In a number of the other States a majority only is required. The Constitution of 1776 required only a majority: in Great Britain, only a majority is required; and, for introducing into the Constitution of the United States the provision requiring two thirds, no reason has or can be given. The Federalist, which was written to secure the adoption of that instrument, furnishes no fact or argument for this change. To require a majority only, is more in harmony with our institutions. Under this provision it would require fifty-one members of the House of Representatives and seventeen Senators, to convict and remove any officer. This would afford an ample protection to good officers; they would have no cause to fear. There would be no danger of conviction and removal without cause. The Senators, although elected on party grounds, are usually very respectable men, who, under their oaths, would do injustice to no one. My belief, is, that even with a majority, many would escape who ought to be removed. If even a good officer, once in fifty years, should happen to be removed unjustly, that would be more than counterbalanced by the advantage to the public in ridding them of unfit officers.

We must view this with reference to public considerations—with a view to the interests of the community, not that of the officer. The officer takes hold and exercises his trust for the benefit of the people, not for his individual benefit, and when a majority of the people's representatives pronounce him unfit, he should hold it no longer. There can be no more correct or reasonable evidence of his unfitness. No man would be appointed to any office in opposition to such majority. Then why should he hold it after such evidence of the want of public confidence and unfitness?

In opposition to reducing the number from two thirds to a majority, an



argument has been drawn from the trial by jury, in which *unanimity* is required. I do not think that the proper criterion. In grand juries, the voice of twelve, and not of the whole, is sufficient to put a man on his trial. This is often a mere majority. It requires twelve also to convict. In impeachments under the amendment, it will require the vote of *fifty-one* to put an officer on trial, and *seventeen* to convict, instead of twelve.

As to the injustice to the incumbent. He received his office on the condition of discharging it with fidelity, and the injustice in this case is no greater than when a man is turned out or left out of any office by the people, or dismissed by the Governor, as he may be under the present Constitution. This argument, in its extent, goes against all removals: And I cannot see if there be any injustice in removal from office, that this is less to the incumbent when done by two thirds, than when done by a majority. It would be better to abolish this article altogether than to retain it as it now stands.

Some gentlemen are in favor of further alteration, so as to confine the judgment to mere removal from office. It has never been carried further, and I presume it never would be. I have no objection to this—not because I would have any sympathy for men who had perjured themselves, betrayed their trusts, and been guilty of misdemeanors in office, or think they should be exempted from punishment, but because a conviction on impeachment would be a foul disgrace, and because I am confident a judgment of disqualification to hold office would be unnecessary, as the people would take care that such convict should never betray another public trust. He would wander about an outcast from society, and never regain the public confidence. For the correctness of this opinion, I can point to a conspicuous instance, an individual once high in the public confidence, who held the second office in the Union.

Mr. BROWN, of Philadelphia, said it had not been his intention when he entered the Convention this morning, to say one word to the committee on the subject under consideration, as he felt entirely indifferent as to the result; but what had fallen from the gentleman from Philadelphia, (Mr. CHAUNCEY) and the gentleman from Allegheny, (Mr. FORWARD) he could not suffer to pass without notice. He would not, he said, trouble the committee long, and would pledge himself not to say one word about the “independence of the judiciary”, or the “article of impeachment”; subjects which, though they had excited attention in the beginning of the debate, seemed to have passed into the “receptacle of things lost upon the earth”, until their spirits had again been called up from the “vasty deep” by the gentleman from Montgomery (Mr. STERIGERE). Mr. B. said he looked upon the debate for several days past, as a dispute about words, rather than things: the error of members consisted in their blending subjects in themselves distinct, and in calling things by their wrong names. Gentlemen had been discussing the *powers* of the *Convention*, when, in fact, there was no difference of opinion on this subject; but under this term, they had gone into an examination of the *duties* of the *members* of the Convention, and this was the real cause of debate, and not the powers of the Convention. All agree that we have power to propose any and all the amendments we please for the consideration of the people. No one thinks we have any other power. But the gentleman from the city (Mr. CHAUNCEY) seems to think that somebody has said, that it is the duty of

this Convention to propose amendments, and that every member is bound to agree to such amendments ; and as that gentleman and his constituents think no amendments of any kind are required, he finds this supposed obligation of duty to the people of the whole State, conflicting with what he deems due to his immediate constituents and his conscience. To those gentlemen, whose notions of duty thus conflicted, he would leave it to settle with themselves ; for himself, he occupied no such position ; his conscience and his constituents approved the amendments he believed were required by the people of the whole State, and which, as he had no doubt, they would approve. The gentleman from Allegheny (Mr. FORWARD) had animadverted severely on the argument of his (Mr. B's.) friend from Butler, (Mr. PURVIANCE) who, though he differed from him in party names, he was happy to say, agreed with him fully in political opinions ; and what, (said Mr. B.) had the gentleman from Butler asserted, that seemed so monstrous in the eyes of the gentleman from Allegheny ? He said, that it was possible a minority of delegates might be elected here opposed to amendments, when a large majority of the people might have previously determined that amendments to the Constitution ought to be made ; and under such circumstances the gentleman from Butler thought it would be the duty of the members of the Convention to carry into effect the popular will. Does the gentleman from Allegheny think this is such monstrous doctrine ? If (said Mr. B.) they would go back into the history of this Convention, they would find it owed its existence to this doctrine. You, sir, (said Mr. B.) would not be in that Chair, nor we here, if any other doctrine had prevailed. Look to the votes calling this Convention, they were on every gentleman's desk, and they would show that the counties that voted against the call of a Convention, had sent up to this Hall, with their votes, 63 members of the same opinion. Suppose (said Mr. B.) these 63 members, being a large majority of the lower House of Assembly, had disobeyed the voice of the people of the State, as expressed by a majority of the voters, and had carried out their own opinions, and those who elected them, would they have done right ? And yet, such is the doctrine of the gentleman from Allegheny, and the gentleman from the city.

The gentleman from the city (Mr. CHAUNCEY) tells us that he will obey the voice of the people ; but it must be their aggregate voice, expressed by a majority of the people of the State, and not what gentlemen may say is the voice of the people, gathered from their constituents in different parts of the State. In this he agreed with the gentleman from the city most cordially. He yielded obedience to the aggregate voice of the people as expressed by a majority ; and by what authority are we assembled here but by that of the expressed will of the majority of the people of the Commonwealth ? And for what purpose have they spoke this Convention into existence ? That majority have told us to "propose amendments to the Constitution". The gentleman had sheltered himself behind the law of the Legislature, but when it was examined the only restriction found in it was that we were to submit our amendments to the people. Look at that act which the gentleman says is our authority, and what does it say ? Does it say the Convention shall assemble to "deliberate", and if they think proper to send back the Constitution to the people unamended ? No, sir. There are no such words to be found in that act. The very title of

the act is "an act providing for the call of a Convention to propose amendments to the Constitution". But, says the gentleman from the city, "what are the amendments we are required to propose"? One gentleman says that the people require one amendment, and another that they require a different one, and how are we to know what they do require? The gentleman is welcome to all the benefit he can derive from this kind of argument. We are here to propose some amendments, and those amendments will be such as gentlemen may think, upon full consideration, the people desired when they called this Convention. He would, however, remind the gentleman that there is a great difference between making no amendments, and making some amendments. The people have required of us to make amendments; we were sent here for that purpose, and we will be derelict to our duty, if we refuse to carry the express will of the people into effect. He would not attempt to prescribe to the gentleman from the city, what his duty is; that is for the gentleman himself to determine—it is for him also to determine which is paramount, his own opinions and the opinions of the citizens of Philadelphia—or the duties he owes to the requisitions of the well matured voice of the people of the whole State of Pennsylvania.

The gentleman from the city asks how we know the people want amendments to the Constitution? And again, he says, the whole cry of reform has been got up by a few uneasy persons and persevered in with an industry and patience worthy of a better cause. *These few persons*, (said Mr. B.) must have had a good cause indeed to get 86,000 of the voters of Pennsylvania to join them in the cry for amendments. The gentleman says the people at large are satisfied and contented with the present Constitution; and yet in the same sentence he tells us that "reformers" have agitated the State for nearly fifty years, the whole period of the existence of the Constitution. These were the very same kind of arguments used by the minority who opposed the assembling of the Convention of 1789 and '90. The very persons who framed the present "matchless Constitution", which the gentleman from the city venerates so much, were met by the same arguments from those who, like him, venerated old things, and thought the Constitution of 1776 a "matchless instrument". In the volume of Conventions of Pennsylvania which each gentleman had upon his desk, will be found, nearly word for word, the arguments of the gentleman from the city.

A minority in the general Assembly of 1789, dissenting from the report of the majority, in favor of a call of a Convention, used the following language:

"We are firmly persuaded that the Government and Constitution of Pennsylvania has discovered as few faults upon trial as any on the continent. A number of people have watched from the beginning for every opportunity to decry it, and every mischief which they could possibly discover, or occasion, has been too often ascribed to the system. Under the present Constitution Pennsylvania has preserved her credit, and paid the interest of her debts, with more punctuality, and to a greater amount, than any other State in the Union".

Again they say—

"It is clear to us that the majority of the good people of the State are averse to it. This House originated it from their own mere notion with-

out any application from their constituents, and invited the people to signify their assent. After an effort of several months, supported by the greatest exertions of Legislative influence, and without any considerable interference to oppose them, this assent has been extorted from not more than (about) one seventh of the people, and this we are authorised to assert from our own knowledge, and the best information, was effected by the most deceptive means, and that in many instances the petitioners supposed the object of the application to this House was the obtaining amendments to the Federal Constitution, and for the lowering the taxes in this State".

Again they say they are opposed to the measures adopted for the call of a Convention : " Because this measure at once infringes the solemn compact entered into by the people of this State with each other, to be ruled by fixed principles ; will render every form of Government precarious and unstable ; encourage factions, in their beginning, contemptible for numbers, by a persevering opposition to any administration, to hope for success ; and subject the lives and the liberties of the good people of this Commonwealth, and all law and Government to uncertainty".

These were the arguments then used against the call of a Convention to form a new Constitution by the minority ; and it appears we are to have these arguments again reiterated here. What were the arguments then used in favor of the call of a Convention ? And how did that majority then ascertain the voice of the people ? In the same volume will be found these words, " having taken effectual measures for satisfying themselves of the sense of the good people of this Commonwealth thereon, they are well assured, from the petitions referred to them, from inquiries made, and from information given by the several members that a large majority of the citizens of this State, are not only satisfied with the measures submitted to them by the House at their last session, but are desirous that the same should be carried into effect", &c.

These are the very evidences which the gentleman from the city now thinks insufficient indications of the popular will. But, sir, we have more than all this : we have their "votes" which the Convention of 1789 had not. What more evidence does the gentleman from the city require ? What higher can he get ? The " aggregate voice of the people expressed through the majority of votes" has called us together, and they have pointed out to us what they have called us to do, as clear as the sun at noonday. They have sent to us their mandate in advance, and he asked of every member here, if that mandate was not to " prepare amendments to the Constitution" ?

One word more to the gentleman from the city of Philadelphia (said Mr. B). That gentleman says it would be a glorious spectacle, and that it would elevate us in the estimation of the whole world, if, after deliberating here, we should send back to the people, untouched, unscathed, in word or letter, that glorious instrument under which we had lived so happily for fifty years. Is the gentleman serious in this ? Does he think that we should elevate ourselves, or those we represent, if, after fifty years complaint of that instrument had proved its imperfections ; if, after 86,000 of the voters of Pennsylvania had said that amendments ought to be made to it, and had assembled us here for the purpose of proposing them, we, their representatives, because we happen to be elected by districts, by separate portions of the people, and not by a majority of the whole people, take

upon ourselves to set the public expressed voice at defiance, and send back to them the present Constitution, with all its defects, and thus say to them we know better than you what kind of a Constitution you ought to have? Does the gentleman think this would elevate the republican character? No, sir, (said Mr. B.) let me tell that gentleman it would sink the character of the people of Pennsylvania; it would sink the character of all representative governments; it would prove that our declaration of rights, that "the people have a right to alter their form of Government", was all a fallacy, all a dream. It would prove that the supremacy of the people was a by-word; that they were subservient to their representatives, who despised their voice, and rejected their mandates.

Mr. CLINE, of Bedford, said it was not his intention to go into a discussion of the subject which had occupied the attention of the Convention for such a length of time, but merely to make some observations in relation to that discussion. He believed that all the debate which he had heard on the subject before the Convention, had no relevancy to it, and he thought all must see that it was an entirely profitless and useless discussion. It was true, when the question was first raised, as to the powers delegated to the Convention, he had said that he should like to have it discussed; but he had no idea, at that time, that we should go into this learned and wide range of discussion, in order to solve this question. He considered it perfectly simple, and that it could have been as well decided by common sense, without this wide field of debate, as in any other way. Gentlemen have gone back two hundred years, in order to convince us that there are certain powers delegated, and certain other powers retained in the hands of the people; and have made many able speeches, and referred to various authorities to convince us of that which we could have much more easily arrived at, by the mere exercise of the reasoning faculties. What was the question? It appeared to him that it had been put in its true light but by one or two gentlemen; and the gentleman from Allegheny (Mr. FORWARD) had given us its true relation. We are here assembled for certain purposes. Now ask of any member what we had come here for, and the answer will be—not that we are here for the purpose of absolutely proposing certain amendments to the Constitution—but for the purpose of *deliberating* as to what amendments ought to be made. It is not obligatory on us, and he did not think the people ever considered that it should be obligatory on us, *to make* amendments to the Constitution. There was a discretionary power left with every member to act according to the dictates of his own judgment on the subject. But it is said that we are a body with limited powers; and so we are—but we are not limited as regards our deliberations. We are limited merely so as not to be able to say what Constitution will suit the people, or what Constitution they shall have; it is for the people themselves to say what amendments they will have if we adopt any.

We have heard it said over and over again that there were two parties in this Convention; one a conservative, and the other a radical party. He did not, however, think that there were two parties in existence in the Convention at present; it might have been that there were two parties at the time of choosing officers of the Convention, but he trusted that distinction had been lost sight of, and he thought it had been at least by a majority of the Convention. He would take it for granted, however, that



there were parties in the Convention, but he thought there were three parties instead of two; one a timid and hesitating party who were afraid to make any changes, lest some of the most important provisions of the Constitution should be violated; and for this reason they were disposed to leave the instrument as it was. Another party was the rash and experimental party, who would be for going to the other extreme—who were for impairing the independence of the Judiciary, and making most of the officers of the State elective. Now, he could not go with either of these parties. But he trusted there was another party, and that party he would call the moderate party. Then, what have we to do? As there were conflicting opinions among the members of the Convention, it appeared to him, before we could arrive at any thing, it was necessary that the opinions of different members should be made to yield to each other, and unless that were done he could not see how or when our labors should terminate. It appeared to him, however, that this was about to be done; for without any disrespect to the violent reformers, it seemed that they were yielding ground in those sentiments they had uttered on this floor some two or three weeks ago. He trusted, too, with the most perfect respect for the conservative party, that they would be reasonable enough to accommodate the other party in some degree; not to break down fundamental principles, but to make reasonable reforms; because nothing could be effected but by accommodating each other. He trusted then, that the moderate party would have some influence with the other two parties, and in this way that they might arrive at something which would be definite and profitable to the people.

He regretted that so much time had been consumed, and had risen more for the purpose of deprecating what he conceived to be a waste of time, than for any other purpose. We have now been occupied with a discussion for four or five days, and he would ask whether any gentleman had spoken in relation to the subject on which we will be called upon to vote. He should certainly have no objection to every gentleman giving his sentiments, when one of the propositions of the Constitution comes before us, and he trusted every gentleman would do so when he finds that the same opinions have not been uttered by some other gentleman; but he must deprecate this reiteration of the same arguments, when it amounts to little or nothing, and when we know the opinions of members are made up. In such cases, it appeared to him to be a profitless and useless waste of time. Gentlemen might say, and it has been said, that it is unreasonable and illiberal to say that sentiments here should not be uttered freely and fully; but he would again appeal to common sense and the experience of gentlemen, whether in the discussion of almost every subject, as all experience in the schools of philosophy and the schools of religion would show, mere useless discussion was not always drawn into the question? If we go on here in the strain in which we have been going, and if there is to be an entire and unlimited discussion of every subject, he would ask every member of the Convention, when our labors were to end? It cannot be said that this is the only question to come before us which will not be discussed in the same way; and if gentlemen go on in this manner, what will be the result of it? Why, we will go on until gentlemen become wearied and tired of debate; and then, perhaps, we will be hurried on in such a way that we will present to the people amendments entirely



different from what they anticipated, and perhaps such as may be disreputable to the body.

So far as regarded the question which had been agitated here for several days past, it appeared to him to be involved in no difficulty whatever. It was a question which was easily solved; and he believed if you would ask any delegate what he came here for, he would tell you for the purpose of *deliberating* whether amendments should be made to the Constitution of the State, to be submitted to the people. He believed, however, that we might return the Constitution to the people as we had received it, and tell them that amendments were unnecessary; and he did not believe many amendments were necessary. He was fully convinced that we had the power of deliberation, and of exercising our own judgment, and he trusted it would be exercised by every gentleman here; but at the same time, every gentleman should consider himself bound to act promptly as well as wisely, and to think more and say less. He had made these remarks with the hope that they might meet the approbation of some of the members of the Convention, and he would be happy if they should meet the approbation of a majority; because, if they should continue to go into the wide field of argument, discussions would be kept up which would be entirely useless and unprofitable to the people, and there would scarcely be any termination of our labors.

Mr. PORTER, of Northampton, said, that some two weeks since he had moved that the Convention resolve itself into a committee of the whole on the Constitution, to be considered article by article. That he was induced to do so, from a desire to have things done "decently and in order;" and the best way of effecting this, was to begin at one end of it, and that was the beginning, and so go regularly through it. But he was overruled, and the Convention determined to begin somewhere about the middle. We were now at article 4: And the simple proposition on it was, whether we should leave the existing provision requiring two thirds to convict on impeachment, or change it so that a bare majority would be sufficient, a proposition about which, it would seem there were scarcely two opinions in this body. But the debate had taken a wide range, and we were found discussing the powers of the Convention, the proper tenure of judges, trying to find out who were the greatest friends of the people, and reading each other lectures on political consistency, which last was rather a delicate subject for some of us to handle. While on this subject, without digressing much further than some other gentlemen, he hoped he might be permitted, "just for information's sake," to inquire of the delegate from Franklin, (Mr. DUNLOP) whether the Convention at New York, of which that delegate spoke, was held before or after a certain distinguished edge tool manufacturer presented a certain *hatchet* to the "OLD ROMAN?"

As it regarded this Convention and its powers, it occurred to him that the act of 1834-5, presented the question to the people, whether a Convention should or should not be held, for the purpose of proposing amendments to the State Constitution, to be submitted to the people?—That a majority (a legal and Constitutional majority) had decided, that a Convention should be held for those purposes, and that then the act of 1836 was passed by the Legislature, prescribing the mode in which the Convention was to be held. This act of 1836 conferred no powers on the

Convention. The powers were conferred by the previous act of the people, in the manner mentioned in the preceding one. Yet this act of 1836, was pretty strong testimony of what the people had done. They, by their representatives, 133 in number, declared in the preamble to that act, "that the freemen of this Commonwealth have, by a *decided majority*, determined that a Convention *should be holden* to prepare and submit for their ratification *a new State Constitution*, and that it was incumbent on the representatives of the people, promptly and without delay, to provide the means of carrying the *public will* into *immediate* effect. He had heard a great deal said about the voice of the people—the will of the people. For his part, he always thought that the will of the people was generally most Constitutionally, if not most clearly expressed through their representatives, elected for the purpose; and here we had the declaration through their representatives of what their will was. This last act was good as regulating details. It professed to do nothing else, and as the Convention was called, it possessed all the powers necessary for the purposes which brought the members together. It possessed all the powers which the people themselves possessed, in relation to settling the principles on which the Government was to be administered. It did not possess all the rights of the people for all purposes—for there were certain rights which were *unalienable*, with which the people could not, according to the Declaration of Independence, part. But all that the people could do, this Convention could do. This Convention could do or propose nothing, which was repugnant to the Constitution of the United States. If they did, and the people ratified it, it would be perfectly nugatory—it would be inoperative and void. The Convention too, was restrained by that moral sense which forbids us to do any thing that is wrong—and after all—if we did what was contrary to the Constitution of the United States—or if we did what was morally wrong, the people ought to, and he trusted they would reject it. Within these limits, however, this body had all power and could exercise it, and when they had done so, all they did amounted to nothing, until a majority of the freemen of the Commonwealth passed judgment upon the expediency of adopting our acts, and gave them their approbation. It really appeared to him, that the distinctions set up were distinctions without difference.

Mr. M'DOWELL, of Bucks, said—Mr. Chairman, this is a vexed, ugly question, and I feel that the discussion of it has been pressed to a very critical point. I fear, sir, that if it is pushed one inch further, mischievous, sudden, and unexpected consequences will follow. These questions of power are always dangerous, and, in this Convention, they seem to be of a tendency agitating, and more or less revolutionary. Sir, I do not like this discussion, because I do not know what is going to be its result. I came here under the apprehension, that I was vested with large powers, and like every other man secured in such belief, I feel very sensitive at the prospect of any encroachment upon those powers. Sir, there is a little knot of people on the extreme eastern verge of this Commonwealth, as intelligent as any in the State, and as independent as they are intelligent, who have given me all the powers I have. I have, as the gentleman from Butler has said, their power of attorney. By that I am armed strong in power, full and ample; and if any gentleman is lacking, perhaps I could lend him. I have all the power I want; and I now give notice to this

Convention, that I mean to exercise it just as I please—governed by no other influences than a sound judgment, integrity of purpose, and the will of my constituents. I do not mean, that any man, or set of men, or party in this Convention, shall prescribe my powers, or dictate to me in what manner, or upon what subjects they shall be exercised. I derive no authority from the majority or minority of this Convention, nor do I mean to account to them for the exercise of any power I have. I am responsible to the good people of Bucks for what I do here, and not to the gentleman from Susquehanna, (Mr. READ) nor the gentleman from the city (Mr. CHAUNCEY). I must discharge my duty faithfully, according to the best light I have. One portion of this Convention says, we are *bound* to submit amendments—another, that we are bound *not* to. Gentlemen may bind *themselves* according to their own notions, but they must not undertake to bind me. I have power to agree or not to agree to amendments, just as my judgment directs. If my constituents see proper to vote down what I have done, then they will have discharged their duty, and nothing more. I hope the Convention will press this matter no further—it is a useless consumption of time, and if they do, I caution them against my pugnacity—they shall not touch my powers.

Mr. Chairman, I rose to offer terms of compromise, and not to make a speech. I wish to bury this scalping-knife of power that has been hanging over our heads for the seven last days. Averse as I am to smoking, I am willing to smoke the pipe of peace with all the members of this body upon *this subject*. Sir, I am not the first great man who has proposed a compromise, when a deliberative body was likely to be convulsed. I have high authority for this course, and I hope I shall be successful. I propose, that the vote be *immediately* taken upon the question before the committee. And as an inducement to this, I propose, that upon all subjects hereafter, every member exercise all the powers he has, or *thinks he has*, whether he has them or not. Mr. Chairman, if this compromise is not agreed to *unanimously*, I do not hold myself under obligations to vote for it.

The question was then taken on the motion of Mr. DICKEY, to strike out of the report of the committee on the fourth article of the Constitution in the second section, the word “majority”, and insert the words “with the concurrence of two thirds”, and decided in the affirmative, without a division; and the second section as amended was agreed to.

The third section was then read, and no proposition being made to amend, the section was agreed to, after a short conversation in relation to the operation of the rule, as it had been amended and agreed to on a previous day.

The committee then rose, and reported the first and third sections of the 4th article without amendment, and the second section with an amendment.

Mr. BELL, of Chester, asked leave to submit a motion, that when the Convention adjourns, it adjourn to meet at 9 o'clock on Monday—ayes 53, nocs 46, but a vote of two thirds being necessary, leave was not granted.

The Convention then adjourned.

SATURDAY, MAY 27, 1837.

Mr. RITER, of Philadelphia, presented a memorial of citizens of that county, praying the Convention to introduce into the fundamental law certain restrictions on the powers of banking corporations, &c., which was laid on the table.

Mr. SAEGER, of Crawford, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved*, That after the adoption of this Constitution, no bank or banks be chartered or re-chartered, unless the Commonwealth holds or takes not more than one third nor less than one fifth of the capital stock thereof ; nor shall any of said banks divide more than seven per cent. per annum of profits among its stockholders ; one and an half per cent. for contingent fund, and the residue of dividend, if any over and above that as aforesaid, seventy-five per cent. thereof to be paid to the State Treasury and twenty-five per cent. in addition to stockholders ; charters not to be for a longer term than twenty years, with such other privileges and restrictions as the Legislature may direct by law.

Mr. STEVENS, of Adams, from the special committee on secret societies and extra judicial oaths to whom was refered the memorial of the Democratic Anti-Masonic Convention, reported the following new article, as an amendment to the Constitution ; which was ordered to be laid on the table, and printed :

ART. —. No secret society using or administering unauthorized oaths or obligations, in the nature of oaths, and using secret signs, tokens or pass-words, and operating by affiliated branches or kindred societies, shall hereafter be formed within this Commonwealth, without express authority of law ; and no person shall hereafter join or become a member of any such society, or take any such oath or obligation in the nature of an oath, in any such secret society now formed, or which may hereafter be formed.

Mr. SCOTT, of Philadelphia, presented the following report of the minority of the same committee, which was ordered to be laid on the table, and printed :

*Resolved*, That it is not expedient to introduce into the Constitution any provision upon the subject refered to this committee.

JOHN M. SCOTT,  
SAM'L C. BONHAM,  
JOHN J. M'CAHEN.

Mr. DENNY, of Allegheny, from the committee on the first article of the Constitution, made the following report, which was ordered to be laid on the table, and printed :

*Resolved*, That the ninth section of said article be altered so as to read as follows :

ARTICLE IX. At the expiration of the term of any class of the present Senators, successors shall be elected for the term of three years. The Senators who may be elected in the year one thousand eight hundred and forty-one, shall be divided by lot into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the first year, of the second class at the expiration of the second year, and of the third class at the expiration of the third year, so that hereafter one third may be chosen every year.

## FIRST ARTICLE.

Mr. DENNY moved that the Convention resolve itself into committee o

the whole on the first article of the Constitution. The motion, he considered, was now in order, as the committee had made a full report on that article.

Mr. PORTER, of Northampton, asked if it would not be in regular order to proceed on the business reported by the committee of the whole.

The PRESIDENT replied that the gentleman from Northampton was right. That business would come up as the first order, after going through the morning orders, without any special motion. It might now be called up by motion, after the present motion should be disposed of.

Mr. DENNY, of Allegheny, thought that it was intended for the reports of the committee of the whole to remain unacted on in Convention, until the whole should have been gone through in committee, when all of them could be taken up together. The better way would be to have all before the Convention previous to any action upon them by that body. He had no objection to either course, as the Convention might decide.

The PRESIDENT stated that such disposition was merely a sort of general understanding in the Convention.

Mr. DICKEY, of Beaver, wished to know on which report of the committee it was proposed to go into committee of the whole. There are three reports, besides a minority report, from the committee, before the Convention. He thought that the committee should have made a more formal report.

Mr. DENNY replied that all the reports were on the files, except the one he had just made, which related merely to the classification of Senators. It could make no difference as to the progress, if the committee of the whole take up report number four for consideration, and having disposed of that, proceed to number five and then to number eleven, and so on. The whole subject would then be before the committee.

Mr. WHITE, of Tioga, expressed a wish that the consideration of this report might be deferred for the present. He had a minority report from the committee, which he would have presented this morning, but for the absence of two gentlemen who had concurred with him in it. He desired delay in order to enable the minority of the committee to make its report. He would ask the motion to be withdrawn, and the third article to be taken up.

The question was then put, and the motion was agreed to.

The Convention then resolved itself into committee of the whole, Mr. PORTER, of Northampton, in the chair.

The several reports of the committee were then read as follows:

### MAY 12.

Mr. DENNY, from the committee on the first article of the Constitution, made report:

That they have had the same under consideration and beg leave to report as follows, viz:

That it is inexpedient to make any alteration in the first, third, fourth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, and twenty-first sections of said article.

That the tenth section be so amended, as to read as follows:

"The General Assembly shall meet on the first Tuesday of January, in every year, unless sooner convened by the Governor".

MAY 15.

The committee on the first article of the Constitution, further report that it is expedient to amend the second section of said article as follows:

"SECT. 1. The representatives shall be chosen annually by the citizens of the city of Philadelphia, and of each county respectively, on the fourth Tuesday of October".

MAY 18.

Mr. DENNY, from the committee on the first article of the Constitution, made a report:

That the fifth section of said article be amended so as to read as follows, viz:

"SECT. 1. The Senators shall be chosen for three years by the citizens of Philadelphia, and of the several counties at the same time, in the same manner, and at the same places where they shall vote for Representatives".

"The committee further report that it is inexpedient to make any alteration in the sixth, seventh, eighth, twenty-second and twenty-third sections of said article".

MAY 12.

Mr. PURVIANCE, from the minority of the Committee on the first article of the Constitution, made a report:

That it is expedient to alter the 22d and 23d sections of said article to read as follows, viz:

"SECT. 22. Every bill which shall have passed both Houses shall be presented to the Governor: if he approve, he shall sign it; but if he shall not approve, he shall return it, with his objections, within ten days after it shall have been presented to him, and his objections shall be entered at large upon the journals of the House in which the bill originated; upon which being done, the Senate and House of Representatives shall, in secret meeting, proceed to reconsider the said bill, and if after such reconsideration, two thirds of said secret meeting, upon joint ballot, shall agree to pass the bill, it shall be a law. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner, as if he had signed it, unless the General Assembly by their adjournment prevent its return".

"SECT. 23. Every order, resolution, or vote, to which the concurrence of both Houses may be necessary (except on a question of adjournment) shall be presented to the Governor, and before it shall take effect, be approved by him, or, being disapproved, shall be repassed by two thirds of both Houses on joint ballot, in secret meeting, for that purpose assembled".



MAY 20.

Mr. BARNITZ, from the minority of the committee to whom was referred the first article of the Constitution, made the following report :

The undersigned a minority of the committee to whom was referred the first article of the Constitution, submit the following report, viz :

“ That it is inexpedient to make any alteration in the fifth section of the first article of the Constitution.

CHARLES A. BARNITZ,  
HARMAR DENNY,  
WM. P. MACLAY.

Mr. READ, of Susquehanna, moved that the committee rise, report progress, and ask leave to sit again. Enough had been done to shew the difficulty of acting on these reports as they have come from the committee. His object in moving that the committee rise was to obtain the recommitment of the reports to the committee, with instructions to make their report in an engrossed form. All the questions would then be before the Convention in a compact and convenient form. It was very awkward to have so many different reports from this committee. To have any consistent action, they must be all sent back to be reported in an engrossed form, including all those sections in which the committee had reported no alteration. Then every thing would be before the Convention in an intelligible form. There was business enough to be acted on to day, in the consideration of other articles. Or the order to take up the Judiciary article on Monday, might be discharged, and that question might be taken up to day. He hoped that the committee would rise, with the specific view of sending back their reports to the committee to be reported in an engrossed form.

Mr. DENNY, of Allegheny, said that the committee of the whole had already had the fourth article under consideration, and precisely in the same form ; and it was agreed to report the first and third sections of the article without amendment, and the second section with an amendment. The committee thought that where no amendments were made, it was unnecessary to detail. There were several specific propositions in this report, number four, stating it to be inexpedient to make any alteration in certain sections. The committee might take up these, or the specific proposition to amend the fourth section, which was embraced in the same report. There was nothing to preclude the offering of amendments. The gentleman who had presented the report of the minority, could move his report in the form of an amendment, so as to have his views laid before the committee. The tendency of the present motion was only to prolong the business of the Convention, concerning which there were already complaints. To send back the reports to the committee could only be productive of delay. Every gentleman had the reports on his files, and could turn to them without difficulty, and if he had any amendment to offer, could propose it. The newspapers had already commenced attacks on the Convention for delaying the business, a course which was very improper. The Convention was the best judge of its own time and business, and he hoped, would take no advice on the subject, from that quarter at least.

Mr. READ, of Susquehanna, said he would not retard the taking of the

question one moment. He thought that by placing the propositions of the committee in an intelligible and a plain form, some difficulty would be saved, and such a discussion as took place yesterday avoided. All disputes would be prevented by reporting in an engrossed form. Instead of retarding the business, the effect would be to save time. It was true, the present forms of the reports did not absolutely preclude the offering of amendments, but the adoption of the other mode would greatly facilitate the business. He wished to save time, and to see the whole at one view.

Mr. CLARKE, of Indiana, expressed his hope that the committee would rise. The Convention had got into difficulty already, which he believed was in some measure imputable to him. He did not foresee the embarrassment which it would bring on the Convention, or he would have reported the fourth article in an engrossed form, copying from the Constitution so far as no alteration was recommended, and giving the sections the amended form where the committee had amended them. All this was soon done. The committee on the fourth article, reported, that the first and third sections did not need amendment. What then was before the committee of the whole? Not the first and third sections, but the report of the committee; and the only way to get an amendment in such case, was, where the committee had reported that there should be no amendment, to negative the report of the committee. The motion ought to be made general, so as to embrace all the committees, and he hoped it would prevail.

Mr. STERIGERE, of Montgomery, hoped to be pardoned for a word or two, as he belonged to the committee. He saw no sufficient reason for the committee rising, in order to send back these reports to the same committee. If it was intended to direct the committee to report more fully on the article, it might be done; but if it was merely for the purpose of reporting again on the same subject, he knew no good which could result when an article of the Constitution was taken up in committee of the whole; the question was on the article, not on the report of the committee; and the other day, when he said the question was on the report, he was answered that it was the article which was before the committee. Reports were nothing more than amendments, and were taken up in the same order as amendments offered by individual members, the only difference between them being that the one had the weight of a committee to back it, while the other was merely the suggestion of an individual; what object was to be gained by sending this report back to the same committee? If the committee wished to rise, in order to take up another article, it was very well, he had no objection; but he was not in favor of sending the report back to the committee which had made it. It would be an useless waste of time. He considered the rule to be that, when in committee of the whole, the article was under consideration, and the rule required that the report should be on the article itself.

Mr. MEREDITH, of Philadelphia, regretted that the motion had been made, unless it was made for the purpose of filling up a sort of a vacant day, when there was no special business for consideration. The views of the committee to which was referred this article, had been expressed, in the reports which are on the files of members. The committee had reported that certain sections of the first article required no amendment,

Any gentleman could call for the reading of these sections, or refer to them on his file, and any amendment could then be suggested. But why was the committee to be directed to report in an engrossed form. It would then become necessary to take up every section, and compare it with the Constitution to see if they agreed. The plan which was the most simple was this. The committee had reported no amendments to these sections, and they might then be read at the table, without any motion being made to amend. The difference was merely a difference of words. The report is on the table, and the Secretary reads it, if the committee of the whole make an amendment, but agree to the report, there is no alteration in the article.

Mr. BROWN, of Philadelphia, said he hoped the committee would rise. He had looked at the reports of the standing committee on this article, and to him they seemed to present the subject in a way not easily understood. The first report contained the 1st, 3d, and 4th, and then passed on to the 11th, 12th and 2d sections; thus presenting the article of the Constitution in a very irregular manner. He said it was his purpose, should the committee rise, to endeavor to have the "article" of the Constitution *itself* brought before the committee, to be taken up in the order in which it is there numbered, and then the reports of the standing committees can come in as amendments; but should they go on, he said, to consider the *reports themselves* in the entangled or mangled form they were reported, they would at every step meet with difficulties, and their whole proceedings would be "confusion worse confounded".

Mr. BELL, of Chester, was also in favor of the rising of the committee. A great diversity of opinions prevailed, and there was a considerable number of amendments. Monday was fixed on for the consideration of a very important subject, the fifth article having been made the special order for that day. It would be impossible to finish this subject to-day, and therefore it would have to be broken off, and resumed on a future day. Every one felt a great interest in the article now taken up, and as there was not time to give it now the consideration it deserved, he would vote in favor of the motion that the committee rise.

Mr. DENNY, of Allegheny, said the gentleman from Philadelphia county had spoken of "confusion worse confounded". If the proposition of the gentleman from Susquehanna prevailed, it was not likely that the gentleman from Philadelphia county would be able to see his way more clearly. It had been said if the Convention had the whole before them, they could refer more readily to the subject under consideration. Would it not be as easy to refer to the printed reports in the possession of gentlemen, as in an engrossed form? There could be no occasion for another report, when the reports are now on the files of members, and could be referred to in a moment. If the reports were sent back to the committee, and they were to report the whole in an engrossed form, it was very probable that the engrossed report would be in a very confused form. They might be induced to report the amended article and the article as it stands in the present Constitution in juxta position, and this would render the report still more confused. As now reported, the reports could be turned to in a moment, and as each section was read it would be in order to propose any amendment to it, and if there was no amendment, it would be unnecessary to take the question on each section, but the committee could

to the next, the report could not be before the committee in any form.

CHAMBERS, of Franklin, said he had hoped after so many hours spent in mere matters of form that the Convention are about, to approach the business for which they had assembled. It was a question of form, whether the reports made by the committee on an article should be taken up for consideration and amendment, or sent back to the committee to be reported in an engrossed form. What was gained by this course? The report to be sent back to be reported as another report? In what manner would this tend to the facilitation of business? The article was now before the committee of the Convention in as entire a form as if the whole article had been reported as a bill, and it was certainly not necessary that the committee should report the subdivisions. He did not see that any thing would be gained by sending back the reports to the committee with a direction to them to report what was already on the files. He hoped the Convention would not allow more time to be wasted in discussing mere forms.

DICKEY, of Beaver, was also in favor of the committee rising, and coming again in a more convenient form. Instead of making a succession of reports without regard to the order of the sections, he would wish the whole of the article presented in the form of an engrossed bill, with the various amendments set forth, so that they might proceed undisturbedly on the subject. The mode in which these amendments are now made has confused men's minds, and occasioned an unnecessary consumption of time.

STERIGER enquired whether if he had an amendment to propose arising from the report of the committee, he could submit it either to the committee or to the original article.

CHAIR said either would be in order.

READ thought the evidence they had of the contrariety of opinions during the last twenty minutes, of the members of the Convention, was decisive, that they would never understand in what manner to proceed if they had the report before them in an engrossed form. Then with reference to the decision of the Chair that both the section and the report was to be taken up by the Convention, and both subject to be amended, suppose an amendment was proposed to the section of a different character from that of the report of the committee, and both were to be adopted, what would be the consequence?

CHAIR said the question would first be taken on the report of the committee, and if that was rejected, then an amendment could be proposed to the section.

DUNLOP said that some gentlemen had considered that this question would lead to confusion and that it was impossible for them to see through it. He did not see any confusion connected with it, and he presumed it must be something else than the confusion of the subject which prevented gentlemen from seeing it in a clear light. It seemed to him that gentlemen were taking a wrong way to expedite business; and the only thing which was necessary to be done was for gentlemen to turn to their printed constitution in bill form, as the Clerk read the sections, and then they propose any amendments they pleased to any section they pleased. A gentleman from Indiana desired to add his supposed amendment

for another branch of the Government, all he would have to do would be to turn to the article on his table and see where it would fit in, and propose it when that section was read by the Secretary. He thought we had better make progress in this matter to-day, and on Monday if it is of more importance than the subject fixed for that day we can postpone that matter and continue with this.

Mr. BROWN inquired if the subject came up whether it would be on the report of the committee or upon the different sections of the first article?

The CHAIR said it would come up on the report of the committee.

Mr. BROWN said he apprehended he was not peculiar in his view of the matter; he had heard from all parts of the Convention, the same difficulties apprehended. But, said he, it may be all very plain to some gentlemen whose vision is so peculiarly acute that they can see just as clearly in the darkness of night as they can in the full blaze of day light. He (Mr. B.) professed no such peculiar powers of vision, and therefore hoped that the matter might be placed in some more comprehensible form.

Mr. STEVENS said it appeared to him that gentlemen had found a difficulty which they themselves had created. He could see no difficulty in getting along with the reports as they were, and the construction of the Chair must make it plain and simple to any one. Any gentleman could move an amendment to a section which the committee had not amended when it came up, and if they desired to make an amendment to a section to which the committee had reported an amendment, all they had to do was to move to strike out the report of the committee and insert their proposed amendment. He hoped gentlemen did not desire to have the whole constitution interspersed in these reports whether amendments were proposed or not. If, when the report was read, gentlemen did not know what the particular section related to, they could turn to their printed Constitution and see in a moment, and if any gentleman could not tell whether the Legislature assembled on the first Tuesday of January or the first Tuesday in December, he could immediately ascertain by reference to his book. We have been told by the newspapers that we were spending near four thousand dollars a day, and if this was the case he hoped gentlemen would proceed with the business now on our tables, and not postpone it to some future day, and thereby prolong the session of the Convention. We have been told by the gentlemen from Susquehanna, (Mr. READ) that this is a dark subject, and that there has been forty different opinions expressed on the question. Well, the sending this subject back to a committee would be of no avail unless that committee had the power to reconcile opinions and correct the judgment, as he thought those who could not understand the subject would not understand it, and had determined that the matter should be in the dark. The gentleman from Beaver (Mr. DICKEY) had understood that we were to have incorporated in our reports, and printed, every section of the Constitution whether amended or not; if that was the case they were to be passing upon the old Constitution and not the amended Constitution. He must protest against this course of proceeding. If there were no amendments proposed then let the old Constitution remain as it is without taking the vote on every section. He hoped they would proceed with the subject and if they came to a dark

spot they could call for light, and if no light came they could lie down and wait until the clear light of day came upon them.

The motion that the committee rise was then decided in the negative without a division.

The first section of the article of the Constitution was then read as follows :

“SECT. 1. The legislative power of this Commonwealth shall be vested in a General Assembly which shall consist of a Senate and House of Representatives.”

Mr. INGERSOLL moved to amend by striking out this section and inserting the following, to be called section one, so that the above section should be numbered section two :

DISTRIBUTION OF POWER.

“SECT. 1. The respective powers of Government, Legislative, Executive and Judicial are by this Constitution severally distributed and established in three distinct branches, viz : A Legislature, a Governor, and a Judiciary, neither of which separate branches shall exercise the authority of either of the others except where this Constitution so directs”.

Mr. INGERSOLL said this proposition was not in the Constitution as it stands, and he did not know why it was not. It was very possible that some gentleman could suggest a good reason why it was not in the Constitution, and if so, he should be satisfied. The principle was a well settled one in all English and American impressions, and he could not see why it was not in the letter of the present Constitution. Every gentleman would recollect, that in BLACKSTONE and MONTESQUIEU we were taught to consider a distribution of authority as indispensable in all forms of Government ; and in the letters of the Federalist, written by Mr. MADISON and Mr. HAMILTON, there were several very extensive articles explaining why this distribution of powers was not put in the Constitution of the United States, but acknowledging its propriety ; and showing that although it was not there in letter, yet it was there in fact. And it will be found, if he mistook not, in referring to the twenty four Constitutions of the different States, that this distribution of powers was in form retained in most of them. In one very important decision of the Supreme Court of the United States, in which the parties to the controversy went from this State, the decision was made by assigning to the Legislature very extensive judicial powers, because the distribution of powers in the Constitution of Pennsylvania was indefinite, and did not take from the Legislature that which the Constitution of most States did. He was not able to say to what this might lead, and he had thought proper to propose this amendment, which he now submitted with great deference to the committee.

Mr. SERGEANT (President) said it struck him, that unless the member from Philadelphia county (Mr. INGERSOLL) could assign some strong reason for introducing this proposition into the Constitution, we had better not introduce it ; and he thought it was the general sense of the Convention that if changes were to be made, they were to be made on full conviction that they were necessary, right and proper. This, he thought, was the sense of the Convention in relation to the oath of office ; and it was also the sense of the Convention in relation to the question of impeachment. Now, if the member from Philadelphia county can give a



good reason, or one which, in his own mind, would make it expedient to introduce this proposition, he (Mr. S.) would yield to his reason, and even have respect for his opinion ; but as he has neither expressed a decided opinion nor given any cogent reason why it should be adopted, he thought, the better plan was to let the matter stand as it was, unaltered. But he (Mr. S.) had a reason against it which he thought would be favorably received by the gentleman himself, whose own experience and recollection will immediately bring him to perceive and understand its force. We have a Constitution now, which has been in operation as long as some of the members of this body have lived, and perhaps embracing the whole period of the active and thinking life of every member of the Convention. He meant that there probably was no member of the Convention who ever had occasion to think of the fundamental law of Pennsylvania, except with reference to this Constitution. For forty-seven years your legislative bodies have acted under it; your Executive has acted under it; your courts of justice throughout the Commonwealth have acted under it; and the people have acted under it; and their modes of thinking, and course of action have been directed by it. When we come to speak of the distribution and ordering of the powers of the Government, that will be a different question, because the people and their representatives may think they have found errors—something to be changed—but in the particular now in question, so far as his knowledge extended, there had been no petitions, no resolutions of county meetings, no instructions to delegates, and nothing which showed a desire of the people to change the Constitution in the manner proposed by the motion under consideration. Then, he took it for granted, that the want of this provision was never felt, and if you introduce it into the Constitution now, you either work a change or you do not. If you do not work a change it is useless ; a mere blank piece of paper ; but if it does work a change, it works a change we do not know any thing of, which we are not prepared to look to ; and for which nobody has asked. Sir, the construction of the Constitution as it now stands, consisting of the actual distribution of the powers of the Government, without any formal declaration, has been the guide of thought and action adopted in Pennsylvania for nearly fifty years. Suppose you should adopt a different plan, and insist upon a distribution of the powers of the Government upon a new principle, and begin with this overruling text, what is to be the effect ? If you work any change, it must be a material change, but how are you to begin it ? By considering the distribution of power as heretofore understood and acted upon, as one thing, and the new mode as another, specifically distinguished by being expressly made subject to this declaratory preamble, and therefore requiring a more rigorous interpretation. Was that wise or prudent ?

He would, he said, go a step further. He believed, from what we have seen during a recent debate, that this Convention was not going to be rash, and he believed, too, it was inclined to be diffident. He believed, that whatever, in the deliberative judgment of the members of the Convention was proper and necessary to be done, would be done ; but he was equally sure, that this Convention was not going to do any thing which they were convinced ought not to be done. Sir, if this text, this caption, this heading, this overruling principle in the shape of a preamble, is

to have any effect at all, as placed at the head of your Constitution, then you must mean to lay more stress than has hitherto been done on the question, as to the precise extent of the Constitutional power of the different departments of the Government. He desired to illustrate his meaning, for he had often heard this same sort of question raised and debated in courts of justice, though never there with much effect; it was a mere topic of declamation, for unless compelled to do so by some emphatic direction, a court of justice cannot rest its conclusions upon such vague ground as a supposed perfect theory of distribution. In truth, this distribution can never be so complete that there will not be cases which partake of the character of more than one of the powers. Take for example, the legislative power. Can you define it in such a way, as that it shall never include any thing in its nature judicial? Nay, must it not, unavoidably, sometimes embrace, as an incident, what is judicial? As far as possible, the boundaries ought to be marked with the utmost possible precision, and carefully preserved. But even then, there will be cases, properly legislative, in which there is some admixture of what is judicial. Let us refer to experience and see what lesson we can learn from it, applicable to this subject. The Legislature has been called upon, more than once, I might say repeatedly, to remedy omissions and errors affecting a large mass of property of citizens of the Commonwealth. Your recording acts require that the deeds of married women, to be effectual, should be acknowledged in a particular form, with a separate examination, to be certified at large by the officer who takes the acknowledgment. Now, in the county of York, and in Lancaster, and probably in other counties, it so happened that by a misunderstanding of the law by conveyancers, they got into a habit of having an acknowledgment made in a way which they supposed and intended to be in conformity with the act of Assembly. In substance, it was so; but when the matter came to be strictly scrutinized in a judicial tribunal, it was decided that these acknowledgments were not in conformity with the act of Assembly. There was not a precise adherence to the very terms prescribed. Of course that decision was calculated to affect property to a very large amount. Well, sir, the Legislature passed a law to remedy this evil, to cure the defect in form, and in the exercise of that act they were supposed to have taken upon themselves judicial as well as legislative authority. Was, then, this act right or wrong? Why, no man could hesitate to say it was just and right. The Constitutionality of the law was nevertheless contested, upon the ground that it was an assumption of judicial power. The question was brought before the Supreme Court; and that court decided, that the act of Assembly was Constitutional; it was unquestionably beneficial, it was honest, and no one would have considered that the Legislature had done its duty, if it had refused to pass it.

If the Legislature could not have corrected the error, it could not have been corrected at all, and then the Constitution would have been chargeable with the want of a just and necessary power. What is our Constitution? It is a distribution of power into three branches—Legislative, Executive, and Judicial—always to be kept separate and distinct, as far as is reasonably practicable. This is the theory; but in its application there occur cases, properly legislative, but incidentally involving something of a judicial character.

In the case above alluded to, the court decided the act to be Constitutional ; justice was done, the honest purchasers kept their land, which they had bought and paid for, and law suits and litigation were prevented. How did this happen ? The answer is plain. Because it is beyond the ingenuity of man to define powers in such a way, as that some matters will not be left lying as it were, over the line ; and where would you arrange them in such cases to prevent a total failure of justice ? In your courts ? They must decide according to the law. They have no discretion, and they ought not to have any. Can your Executive give relief ? He is only to see that the laws are executed. It is entirely out of his province. Where, then, is the appeal to go ? Some where, it ought to be heard. If relief is not to be found in the Legislature, there is no relief at all for that class of cases which are connected with the legislative department, with some kind of judicial action connected with them. This Constitution, which we are now considering, is supposed, by some, not to be a wise Constitution. He would tell those who thought so, with confidence, so far as respected himself and his own opinions, that from all he had seen of its workings throughout, he was satisfied that it had been well considered and digested by men who are not likely to be surpassed in competency for such a work. He was not going to set up the Constitution as an idol, nor to assert that it was perfect, at least, that it had attained the ideal perfection which was dreamed of, as though it belonged to nothing human ; but as often as he had the opportunity of the floor, when proper occasions arose, and the committee would allow him to do so, he would endeavor to show the wisdom of the Constitution in its several parts. So far as the committee should go with him in opinion, they would come to the same conclusion, and let the Constitution stand ; and where they finally differed, they must try to conciliate opinions, by mutual concession.

How can it be alleged that this is not a wise and a good Constitution ? It certainly had done all that a Constitution could do to preserve and secure the rights of the citizens, and promote the prosperity of the Commonwealth. The learned gentleman from Philadelphia had intimated, however, that there had been such a growth of knowledge in matters of government, that the youngest member of the present Convention has more knowledge than all the framers of the Constitution of 1790 together.

Mr. INGERSOLL explained. He had said that the youngest member of the Convention had more political experience than the framers of the Constitution.

Mr. SERGEANT resumed. More political experience ! Sir, according to that notion, if a Convention should be called fifty years hence, it will just be as true in reference to us as it is of us in regard to the Convention of half a century ago. We shall be looked upon as fools in comparison with those who are to come after us. He did not agree in any such doctrine. He believed that the men who made the Constitution of 1790 were under circumstances quite as favorable to a full and living knowledge of the true principles of government as this Convention or any other body. He meant to speak plainly and sincerely on this as on all occasions. He did not mean to say any thing that did not strike him as strictly correct ; neither did he mean, from an affected humility, to say any thing that would disparage this body or those who sent us here, by a gratuitous concession of inferiority ; nor did he mean to predicate any thing unfavorable

of any Convention which might come hereafter; but he would say this: if ever there was a period when the minds of men in this country were deeply imbued with a knowledge of the true principles of government it was that which immediately preceded the adoption of the Constitution of 1790. Sir, had not this people—few in numbers, compared with the present times—had they not been in the school where the principles of government were taught for twenty years, their minds fixed upon it, their feelings engaged in it, and their lives depending upon it? Did you ever read Mr. BURKE's splendid speech on conciliation with America, and can you have forgotten what he says of the pervading political sagacity of the people of this country, of their habitual study of the principles of government, making what was elsewhere a science the daily and familiar subject of their thoughts till they were in advance of all the world in relation to such matters? Of their keen perception and accurate knowledge of their rights? And what are we now? We have been living, quietly, and tranquilly, and securely, without any thing to excite or quicken our attention, nay with every thing to lull it to rest and inaction. We have by no means had the opportunities of instruction which the times of that Convention still continued to afford. They had among them the men who had learned in the school of the Revolution. He would now draw the attention of the committee to the names attached to the Constitution of 1790. The first man on the list was an individual, who, at that day, was distinguished for his political knowledge as well as for his great abilities, and to whom no objection was ever made, but that many thought his notions of government were too democratic. This eminent individual, I mean the late Judge WILSON, was in favor of a Government which others thought would not be of sufficient strength to protect the rights of the people. To him we chiefly owe the most democratic features of the Constitution. He was afterwards a Judge of the Supreme Court of the United States. How many, too, do you see among those names who have since been Governors of Pennsylvania, and called to other high employments. Will this Convention furnish as many as that one did with less than half its numbers? But he had heard it said, and he heard it with surprise, and not without regret, from the gentleman from Philadelphia, (Mr. INGERSOLL) that *Mr. Justice BLACKSTONE* made the Constitution, and made it by his apprentices; that the members of that Convention were only apprentices of BLACKSTONE. Was THOMAS MIFFLIN, the President, an apprentice of BLACKSTONE? He had thought that THOMAS MIFFLIN was schooled in the field, where, laying aside the scruples of his religious profession, he had rushed to defend his country's rights. Was *he* to be styled an apprentice of BLACKSTONE who had served his country in arms through her whole struggle for independence? There, was the name of SIMON SNYDER, who had been Governor of the State for nine years; was he an apprentice of BLACKSTONE? Here was also the name of THOMAS M'KEAN, who had also been Governor of the State for nine years; was he to be called an apprentice of BLACKSTONE? We know that he had been, for some time, in the military service of the country during the revolutionary war; but he never knew that he was taught by BLACKSTONE—still less that he was only an apprentice when he had attained his full and great stature. JAMES ROSS was a lawyer, and was an eminent lawyer; had, more than once, been a Representative of Pennsylvania in the Senate of the United States; had been three times a

candidate for the office of Governor, and had each time received the support of a minority sufficiently strong to make it a matter of great honor to him. Here was, also, the names of JOHN SMILIE and WILLIAM FINDLEY, one of the most extraordinary men that the Commonwealth had numbered among her citizens ; a man brought up to manhood with nothing to depend upon but his daily labor ; who came to the country a true real working man ; but honored, by his fellow citizens, who discovered his integrity and native talent, with public employment, where he availed himself so assiduously of the opportunities of improvement afforded him in the course of his labors as to become eminent for his knowledge, and especially for his knowledge of the history and principles of legislation, probably beyond any man we have had among us, so that he continued to be appealed to, with deferential respect, to the last day of his life. He found here, too, the name of SAMUEL SITGREAVES—a name, (he said) Mr. Chairman, well known to you—a man whose first speech in the House of Representatives of the United States was of such striking force that the opposite party declared it would not do to let it go unanswered ; and, from the first moment of his appearance there, the only wonder was, how such a magnificent mind could have been kept so long out of the public sight. There were a great many other men of high character in that assemblage, and if you look over the list you will find a great variety of distinguished, and probably, every sort of political bias ; but they were generally endowed, in common, with superior talents. So much, for the qualifications of the citizens who composed that Convention. Upon what principle did they proceed in forming this Constitution ? Sir, they proceeded upon the plan upon which alone Constitutions can be formed. He wished the learned delegate from Philadelphia (Mr. EARLE) to listen to what he had to say in relation to one remark he (Mr. EARLE) had made, as applicable to this question. That delegate, he believed, had said that the two best forms of Government were a despotism and a democracy. If he had misunderstood the delegate he was subject to correction. He did not mean to question, at present, the preference, especially for a despotism. But it struck him that there was no such thing as a despotic *form* of Government. The regular forms of Government are Democracy, Aristocracy and Monarchy, and there is an irregular one, termed an Oligarchy. There was no such form of Government as a Despotism—it is a quality or character, not a thing. PROTEUS like, it can assume any form, and a democratic Government may be just as despotic and as defective as any other form of Government. A monarchy is not a despotic form of Government, neither does it follow that an aristocratic Government is despotic. Any form of Government may become despotic. What he understood to be a despotism was, an arbitrary Government that did not conduct itself according to law, but according to mere will ; and where that happens, it is a Government of force, and wrong, and, therefore, it is a despotism, whatever may be its form. How has despotic power been exercised in the world heretofore ? Never in the form and name of a democracy. What sterner despotism have we seen than that of him who was styled the child and champion of the Revolution—not the Revolution of this country, for her champion was truly the child, the obedient, affectionate child, always submissive to the laws of his country—but he who was the champion, of the Republic, one and indivisible, and for a time used the same form which had sanc-



tioned the mandates of ROBESPIERRE and the rest of the bloody despots. In all the proscriptions, the disorders, and the murders which preceded the establishment of the authority of AUGUSTUS in Rome, what was the form of Government? The same that it was before. When MARIUS was carrying on his proscriptions, and when SCYLLA was exercising his lawless authority, had the Government, in form, undergone any change? When AUGUSTUS did change the form and assume the name and authority of Emperor, was not the change favorable to liberty? Was not the Imperial power less despotic than the Republic? When SIBERIUS succeeded AUGUSTUS, there was no change of form. His sceptre, to the eye, was the same which AUGUSTUS had wielded. But how different in reality!

Sir, let the Government be in form as it may—democratical, monarchical, or aristocratical—whenever it surrenders its power into the hands of unauthorized individuals, or exercises that power itself in a manner not consonant with right and justice, it is despotic; it is a Government of will and not of law, and just as a Government advances in such a course, exactly in that proportion does it become a despotism. What then is liberty? LIBERTY IS LAW; Liberty is law, and no man can give another definition of it. Will any one say that liberty is the right of every man to do as he pleases? Then he who is strong and powerful will have as much liberty as he wants, and more, perhaps, than will be good for him; but God help his weaker neighbor—what liberty will he have, if there be no restraint upon the strong?

Here are, in this body, one hundred and thirty-three gentlemen, from various parts of Pennsylvania, selected for their wisdom, and having as much skill in self government as any other equal number of men; and not a very numerous body either. These one hundred and thirty-three gentlemen all have a right to possess perfect and equal liberty. Do they not? Well, sir, how do you establish and secure this liberty? One man can speak louder than another, and the feeble voice might be drowned. One man has greater physical powers, or stronger nerves, than another, and the weaker might be silenced or kept back by his own timidity. The first thing then that you do to secure liberty, is to make a code of laws, and until your laws are made, there is no liberty. What is the first law? It is a law of property. When you come into the House, each takes his place, and that is *his* place as long as the Convention endures. You then adopt rules of order. Well what are rules of order? Why, one of them is, that the majority gives a pledge to the minority that these rules shall never be dispensed with without the concurrence of two thirds of the body. That is a law of liberty, there is no doubt of it. And so of all your rules. They are to establish and secure equality, freedom, and order—the rights which belong to the members before they came here—not to confer, but to secure them. It is to do justice.

It would be a despotic Constitution whatever form it might have, that undertook to interfere with those rights, or to take them from any one. What then is the Constitution of a Commonwealth? It is the same thing upon a large scale. The Declaration of Independence has told us that there are rights which are inalienable, as life, liberty, and the pursuit of happiness. If they are inalienable, they are not conferred by man: they are pre-existent. What is your plan of Government? Not to give right. By no means. But, like the rules of order here—to secure right—to



secure life—to secure liberty—to secure the pursuit of happiness. The right itself is given by no human Constitution. It comes from a higher source. It is the gift of Heaven to man. Here, then, let us take a retrospective view. When our fathers, who made this Constitution, came to look at the duty they had before them, they turned their eye upon the Constitution of the United States, and under that Constitution they found that they had already perfect security, as far as that instrument could go. For, it not only carefully avoided taking from the people any rights whatsoever, but also gave them, as far as possible, security against encroachment on them. That instrument, while it established a republican form of Government for the whole people of the United States, guaranteed to every State in this Union a Republican form of Government, and no other Government can be established, in any State of this Union.

Now, there are powers which are rightful, and there are powers which are wrongful. Rightful power is all power which is conferred by law of any sort—the moral law, the public law, the civil law—by which I mean the laws of a community. Wrongful power is all power that transgresses any of these laws. Sir, if a man should make a promise to do anything, does he not violate the law if he break it? Does he not know that it is a violation? Does not his own conscience inform him? So if he invade his neighbor's right of property. The wandering Arab of the desert—the freest creature on earth, as long as he has limbs and health—finding himself fatigued and drowsy, while traversing the ocean of sand, stops, dismounts, and lying down—falls asleep. Another wanderer comes along and carries off his saddle and bridle, or his horse: is *he* not a thief? And, how is he a thief? Where is the law that calls him a thief—that prohibits him from taking what belongs to another? Yet he knows he is a thief. He endeavors to escape detection, and he feels humiliation when he is detected.—And, so, when he gives his solemn promise—is he not bound by that promise, even tho' no law existed on the subject? Is it, then, in the power of any Constitution to make right—wrong?—wrong—right?—bitter—sweet?—sweet—bitter?—light—darkness? You must discard the Bible if you believe any such thing.

What then, I say, is your Constitution? And, let us see whether the agents of the people, who framed that Constitution, did not understand the work they were about. They had the Constitution of the United States before them. It defined the powers to be given to the General Government—a confederated form of Government. But, they were enjoined by that Constitution to make a republican form of Government. And, what is *that*? The first principle of it is contained in the Bill of Rights—that there are rights which a man cannot part with, even if he desires to do so. Then, sir, the object of the Constitution is to secure to man his natural rights. For my part, I want no other Constitution, nor could I desire a better. Secure me that, and I am satisfied. I can live happily under it. God has given us all that is necessary to live in the enjoyment of freedom. No man can prolong his life a day—he cannot alter his stature. No more than the Giants of old can he succeed in an attempt to thwart the plans of Heaven. He cannot build a Tower of Babel. He cannot fulfil all his individual desires: and, if he would exalt himself higher than his nature allows, he would only find unconquerable resistance. That Constitution begins then, by acknowledging that you already have certain inalienable

rights, and that these are to be protected and secured. What does the Constitution guarantee? A form of Government—for, without a form of Government, you cannot have any right secured except the right of the strong, and that is no right at all. It is like what is called the *ultima ratio regum*—the *ultima ratio hominum*—the law of force—the destructive, not the conservative law.

This Constitution assumes as its basis that these rights are inalienable—that man cannot give them up, if he would. Now, what is it that your Government guarantees to you? Why, it is, that it will grant Constitutional power in such a way that you shall not be oppressed, but protected in the enjoyment of your proper rights. Sir, does that Constitution mean to say that the murderer shall not be hanged? When I hear that sentence of death has been passed on a fellow creature, I know of nothing that makes it my duty to feel that there is a want of humanity in that law which condemns the murderer to death. I find the highest sanction for the precept, that he who sheds blood, by man shall his blood be shed. If the robber, or the murderer invades the peaceful household, and destroys the life of an innocent child before its parents' face, and being overpowered and taken, after having committed this horrid deed, in the cold and cruel exercise of his liberty, the law should condemn him to death for it; is there any thing in this at all calculated to call for our pity and commiseration? Is not this for the security of life—the inalienable right of life? What does the judge do in the exercise of his power, represented by the delegate from Philadelphia county (Mr. INGERSOLL) as so mighty and so deplorable? Nothing. The law constructs the gallows, and provides the executioner. The jury declare him guilty, and the judge reads from your statute book the punishment which the law declares to be due to the man, after he has been found guilty. What has the judge to do with it? Does he put any man to death? Has he the power to dispense with or mitigate it? But can you dispense with the law to punish offenders? Or the judge to read and pronounce that law? Is it not necessary to your liberties and security that there should be such laws? Is it not the right—yes, the right—of the peaceable and obedient citizen, that the terrors of the law shall protect him and his family from the terrors of robbery and murder—shall secure him life, liberty, and the pursuit of happiness? And, the Legislature accordingly says, with a strong persuasion in point of humanity, that he who is guilty of murder, in the first degree—murder by assassination, murder by poison, or any other atrocious act, which shall deprive a fellow being of life, shall be put to death. Why should he not be put to death? Is there any thing which forbids it? Whether a fit and adequate substitute can be provided, deserves the earnest consideration of the Legislature. The judge and the executioner—the sheriff, whose duty it is to witness the last scene, is no more responsible for it than the inanimate instruments they employ. Why, then, should the delegate from Philadelphia county, (Mr. INGERSOLL) have put forth this as an odious and deplorable power of the judge? But, to return to the immediate question—among the grants of your Constitution, I wish to know whether the great remedial power, we have been discussing, ought not to be somewhere preserved? And, to test the matter by the dictates of common sense, and common justice, I will take the very instance I have been speaking of—the consideration money paid—the bargain fairly concluded,

and executed, it may be money expended in improvements, and then a formal error disclosed. Ought there not to be a power in the community to relieve the citizen, who has been thus led into error? No one will deny it in the abstract; and yet, in the case of which I have given you an account, you see that the remedy would not be in the Judiciary nor in the Executive. And, where, then, can you leave it? Leave it, where you leave the residue of power—with the Legislature, to be exercised by them, that they shall not interfere with the lawful or natural rights of the rest of the community.

For these reasons, I hope no alteration will be made in the Constitution in this particular. We understand the Constitution as it is. If it should be thought necessary to alter the tenure of service of the Judges, be it so; but do not alter the principle. Great caution should be observed, lest, by the introduction of a new principle, much inconvenience may be produced. There was a recent case of more moment than that which has been named. I mean the claim of the heirs of JOHN NICHOLSON, to some millions of acres of land sold by the Commonwealth for the payment of a debt, on the ground that the Commonwealth had not proceeded to make sale in the most usual form of judicial proceeding, but in a mode authorized by law, and required by the nature of the case. One of the objections to the law that was passed, was—that the matter was of a judicial nature, and beyond the power of the Legislature. The Supreme Court of the United States decided that it was not. As one of the counsel of the Commonwealth, I referred to all the cases decided in Pennsylvania, to show that, incidentally, powers involving something of a judicial character, to a certain extent, may be exercised by the Legislature, without encroaching on the Constitution. The justice of the case of the Commonwealth was indisputable. Was not the land liable for debt to the Commonwealth? Was not that debt legally adjudicated and ascertained? And were not the sales according to law? There was property in Franklin county, of great value, though worth nothing at the time it was purchased, but improved by labor and expenditure in the hands of the purchaser. Was that to be abandoned and given up? If gentlemen will look into the question, they will find it is one involving principles of the greatest magnitude and importance.

Now, sir, I am in favor of retaining that remedial power. It is on that ground I resist any alteration. With regard to this matter of confidence in the people, my mind is made up. I have a Constitutional confidence. I confide, because it is the law of our Government; it is the will of the Constitution; it is the principle of our social compact; it is our political dogma. And, therefore, finally, I say, of the people—i. e. the majority—as is said in England by the people, and in the same sense, “The King can do no wrong”—“The majority can do no wrong”—in other words, that what they do must rightfully prevail. Unless it be beyond the Constitution, it must prevail, and therefore it is right. I wish this remedial power to be incorporated with some branch of the Constitution, because it is a power which has been found salutary, and which may be required hereafter.

Mr. INGERSOLL made some observations in reply.

Mr. SERGEANT said there was one thing mentioned by the delegate from the county, as to which he was glad an opportunity had been presented to

offer some explanations, whether he was able to defend himself elsewhere or not. He had not (he said) intended or desired to castigate or lecture any body, in any remarks which he had submitted. They were fairly applied to the subject, and so they must stand. If they were felt, by any body, as a castigation or rebuke, that was no fault of his. The subject in regard to which he desired to offer an explanation—though it was a little out of order to bring it up now—related to the Chair and to a distinguished individual whose name had been introduced by the delegate from the county. He had wished to state to the Convention, when an occasion might arise, his whole heart and mind on that subject, and he might never have an opportunity unless he embraced the very singular one which had now arisen. He referred to what had been said respecting Mr. BUCHANAN. Personally (said Mr. SERGEANT) I did not invite that gentleman to a seat within the bar. I could not, for I was in the Chair. A member mentioned to me that Mr. BUCHANAN was present, and near the door, and asked my permission to invite him to a seat. Believing this to be a courtesy due to that gentleman and the high station he held, I requested it might be done. It was, and Mr. BUCHANAN came within the bar. Whether he was there when his name was introduced by the gentleman from Somerset, or not, I do not know. He was not in my sight at the time. But if he had been, it would have made no difference. In regard to the duty of the Chair on the occasion, the point is this—whether the Chair shall exercise his authority arbitrarily, without law, or according to law. I want to know whether, in electing an officer to preside over this body, the delegate from Philadelphia county means that you clothe him with arbitrary power? If so, I should hardly know what to do with it—I should distract myself, and perhaps become a little bewildered. But I wish to know from the member from the county of Philadelphia—because we must have free discussion here—and, with the delegate's leave, I shall myself humbly enter into free discussion—at what risk, after what we have seen and heard, I hardly know; but whatever it is I must incur it: I wish to know, I say, from that learned delegate, whether he thinks the Chair is clothed with arbitrary authority, and, if not, whether there is any law or rule that will authorize the Chair when a member is speaking—even supposing that the Chair could with certainty foresee what the member is going to say, (which is impossible)—to prevent the member from speaking of any body, or mentioning the name of any body, not a member of the Convention. Suppose the Chair should tell the member to take his seat, and an appeal should be then taken from the Chair's decision. The Chair must give an account of his conduct, and state the reason and the rule for his course. Where would he find the rule? Will the gentleman point to that part of the rules which authorizes the Chair to call a member to order, for naming an individual (not a member) in debate?

Mr. INGERSOLL: There is a mode of interposition short of the exertion of authority. A timely hint—such as the Chairman, this morning, favored me with—might have prevented the occurrence.

Mr. SERGEANT: There is no rule of order that authorizes the Chair to interrupt a member while he is speaking. Doing so, would be the exercise of arbitrary power. I know no rule but the law. But, if an intimation would have been sufficient, why did not the gentleman give it

himself? Why did he remain silent? He had as much right as the Chair, for neither, let me tell him, had any.

How could the Chair know what the member was about to say? How could he know that he was going to call a person by name? Then, the charge against the Chair is, that he did not exercise an arbitrary authority, and do what was unnecessary, as well as wrong, for every member of the Convention could have done as much as the Chair could. I will never, knowingly, set an example in this Convention of the abuse of power by its lawless exercise. I have too much respect for the Convention to do it here, and too much for myself, to do it any where. If we try the matter a little further, we shall see that a great many other things are assumed, which have not a shadow of foundation. Suppose I had called the member from Somerset to order, and he had appealed. The Convention would have decided that he was in order. The Chair would have been put in the wrong, and he in the right: and the member from Somerset might have gone on saying "JAMES BUCHANAN" till midnight. I therefore say again to the delegate from the county, that I wish to know whether the Convention considers the Chair as above the law, and that he may assume arbitrary authority?

But the Chair is charged with another offence. The delegate from Philadelphia county has said, that he (the PRESIDENT) was elected by a party vote. I do not wish to trouble this body with any business or concerns of mine, but only to stand right as to matter of fact. I stated this—that I trusted that now there were no party lines in the Convention, if there had been in its organization. Suppose I had said that I hoped there would now be no party lines, because there were *some* in the organization of the body. In the former case I spoke truly, in the latter I should have said what is not true; I stated it in the former way, because I like always to have the truth on my side. This is my answer to that charge. In relation to the far famed NICHOLSON case, which has been brought in here, it is said that great liberties were taken with Mr. LIVINGSTON; it may be so. I shall not argue that matter here. The duty I had to perform as counsel of the Commonwealth, was an interesting and highly important one. Undoubtedly, it is true, that I did not mean to shrink from its discharge, nor to surrender her interests, nor the interests of those who had purchased from her, out of any overstrained delicacy towards Mr. LIVINGSTON or Mr. any body else, and it may be that the nature of the claim required severity of remark. That, however, is not to the purpose. All that I shall say is, that after the trial was over, the first person who came up and addressed me was Mr. LIVINGSTON, and he did so with perfect good humor and kindness, as if he felt no rankling wound. His conduct was marked with the generous and good feeling that always characterized him. He never treasured remains of revengeful feeling in his bosom, to be afterwards indulged. But the delegate from Philadelphia county has not stated the law on the fact, correctly, in regard to the JOHN NICHOLSON case. He says the debt was not confessed. I ask him whether the mode of accounting and ascertaining the debt in that case, was not in conformity with law? I ask him whether that law was not drawn by JOHN NICHOLSON himself, when Comptroller? If that be not enough, I then ask him whether the Commonwealth, then represented by a very able Attorney General, whom he knew, did not obtain from JOHN NICHOLSON a confession of judgment of



record for the full amount of the claim—and whether it is not standing on the docket of the Supreme Court, unsatisfied, to this day. JOHN NICHOLSON confessed, literally confessed—the very word I used—yes, confessed the judgment by his attorney. The learned Judge who presided at the trial, is now in this body, and no doubt, well remembers the facts. There was a stay of execution allowed, for three months, during which time leave was given to Mr. NICHOLSON to point out errors in the amount, if he could. He never did point out any, and at the end of three months, the judgment stood as it did at the beginning. I say again, therefore, the debt was confessed. Was it not according to law for the Commonwealth to collect this debt? Was it not competent for the State to compel its debtor to make payment? Is it a confiscation to sell the land of a debtor, under process after judgment, to pay the debt? Is that a confiscation? Or, is it not a gross abuse of terms to call it so? Sir, I am a Pennsylvanian, and a lawyer—at least I am so called—that is my profession—and the Governor, under authority of the Legislature, having seen fit to employ me as counsel for the State, I went into Court to sustain the case—a just one, I knew it to be. I did not, as already said, go there to give up what was not my own, to my respect for Mr. LIVINGSTON or any body else, but to do my duty to the State, who had confided in me. It so happened that the Commonwealth succeeded, and gained the suit; and the decision of the Court was afterwards confirmed by the Supreme Court of the United States. The State was able to tell all the purchasers under her sales, that they were now safe in what they had bought and paid for; and the heirs of Mr. NICHOLSON can never again disturb them with this unfounded claim. I leave that matter.

I come now to the subject of this clause. What signifies my conduct in the Chair?—what signifies my relations with Mr. LIVINGSTON or the story of the trial?—what have the Convention to do with my feelings or with me, or with the heirs of JOHN NICHOLSON, or the late Mr. LIVINGSTON? Does not this body consist of one hundred and thirty-three members—and why should I go into matters that they care not for. I did not do so, nor will I. I cited a case in point, where the Legislature was charged with retrospective legislation, and the exercise of judicial power. But in the end it all came out right, it was judicially and finally decided. Is that matter to be debated here? Is it not settled. Is the Convention to be guilty of the absurdity of rehearing the case? The York county case—was not that a case of remedial legislation? Suppose the Government had been tied down in such a way that neither the Legislature nor the Judiciary could give relief. The ends of justice could not have been obtained. This is a clear thing—and the delegate from Philadelphia must excuse me if, when I think a thing clear I say so, however hard it may press upon any opinion or argument of his.

I have told you before, Mr, Chairman, what I think of the freedom of debate. Freedom of debate does not consist in giving all the liberty to man that he may wish to have. It consists in speaking in order and according to law, every one having an equal right. If any individual is not subject to the same law, with the rest, all others had better withdraw, and leave him in possession of the Hall. Suppose a member tells you that you must not speak here, that there has been debate enough, (he having spoken himself) and that after the adjournment, you may have the Hall in the



afternoon, if you wish to deliver lectures. Are gentlemen to be prevented from speaking by intimations like these? Again—must they be silent for fear of being sneered at, and lectured, yes lectured?—for fear of having words attributed to them which they have not used—must they hold their tongues unless they can adapt their phrases to the precise taste and manner and comprehension of the delegate from Philadelphia? Must they remain mute from dread of personal attack? For my own part, Mr. Chairman, I will freely admit the delegate's claim to superiority in debate, if that will content him—but I hope he will not attempt to put me down on that account. If I cannot speak as well as he does, with the same good sense and good taste, he ought to have compassion on me; instead of flouting and chiding so harshly, and menacing, with fierce and angry looks, and bringing up old grievances, he ought to be gentle and kind. But, perhaps, after all, there is not so much difference between the delegate and myself, as may appear. We are certainly both alike in one respect. I am a poor man in a free country. I was bred in a free country, and under a free Constitution: and I now tell him that no man's words, looks, or menaces, under whatever form they may be put forth, in full fury, or choaked and half suppressed, will keep me silent, when my duty to my constituents, in my own free judgment, requires me to speak.

Mr. INGERSOLL rose and moved, that the committee rise. He felt some interest in the clause, (he said) and did not feel able to do justice to it at this time. He hoped the committee would rise.

Mr. DUNLOP. I hope the committee will not rise. I wish——

Mr. INGERSOLL. As the gentleman from Franklin, sometimes visits me with his wit, I beg leave to say to him, before he goes on, that I beg to be spared from that to day. I am not able now, nor in a suitable temper. At any other time, or any where, I shall be most happy to hear the gentleman's notice.

Mr. DUNLOP: I was about to inform the gentleman, that he would lose an ally if the committee rose. I have risen with no purpose but to sustain the gentleman's amendment.

Mr. INGERSOLL: I beg ten thousand pardons sir.

Mr. DUNLOP: The different powers ought to be kept distinct, and, on that ground alone, can a Constitution be held together. If the gentleman withdraws the motion for the committee to rise, I shall move a slight amendment to the proposition, affecting its phraseology more than its meaning.

Mr. INGERSOLL: I withdraw it.

Mr. DUNLOP, would inform the gentleman, (he said,) that he was losing an ally by moving that the committee rise. He had risen to support the gentleman's amendment, if he would withdraw the motion.

Mr. INGERSOLL: I beg ten thousand pardons. I withdraw it.

Mr. DUNLOP was persuaded, (he said) that the several departments of the Government were not sufficiently distinct; an entire separation of them ought to be effected, and on that ground alone, could the Constitution stand. He should support this amendment with some slight alterations in its phraseology. He would, he added, now say, in reference to the remarks which had just fallen from the gentleman from Philadelphia, that he sought no conflict with any member; and that, if any of the little sarcasms in which he had indulged, had occasioned a moment's pain to any one

he was very sorry for it. If he carried a sting, he also had a little store of honey. The sting he kept for those who were entitled to it—certainly not for the gentleman.

I must say, (continued Mr. D.) that much as I admired the able argument of the learned gentleman who opposed this amendment, I cannot be driven from the opinion, that the several powers of the Government ought to be kept distinct, and that the laws interfering with the proper functions of the Judiciary, were usurpations. I have always voted against such laws in the Legislature. Shall the Legislature make laws and ask the Judges to administer them, and then if a blundering lawyer in York county—he hoped there were no York county lawyers here—should commit an error, shall the Legislature interpose their authority to correct this error, at the hazard of committing flagrant injustice to individuals in other cases? Take this case. Suppose a *feme covert* makes an acknowledgment of a transfer of her estate, and that it is not done in legal form. After the husband's death, suppose she is advised by some lawyer that the transfer was not good, and she sells the estate again. Should the Legislature be permitted to interfere, and say that the first acknowledgment was good, contrary to the law? This was a case that had happened, and in which a widow and her daughter were turned out of doors, after paying a full consideration for their property. One party then claimed, under one act of the Legislature, and the other under another act. He submitted that it was essential to the purposes of equity and justice, that the laws, when made, should be left to the administration of the Judiciary. Interference by the Legislature was certain to produce great injustice in some quarter or other. He did not think that encouragement ought to be given to such laws, or that they were proper instances to cite in opposition to the provision now offered for keeping the powers of the Legislative department distinct from those of the Judiciary. A declaration, such as was proposed to be placed on the face of the Constitution, would, he thought, have the effect to cause the respective departments of the Government to keep within their proper spheres. In defiance of an obligation, sanctioned by an oath, which, as on another occasion, he had remarked, had in it something imposing on the mind, both of the learned and unlearned, no officer of any department would be likely to touch upon powers not belonging to him. In forming a new Constitution it was proper to make a declaration, that the powers of the several departments should be kept distinct. It could do no harm, and might do much good—and this was an argument which, though it had been much twitted, was not easily disposed of. If every man's mind was like his own, open to conviction, he should not despair of seeing this proposition sustained. He hoped, therefore, that gentlemen would deliberate upon it before they decided, and that they would not decide against it hastily, and under the influence of the able and learned arguments of its opponents, as was the case with the proposition which he recently introduced, for providing that each State officer should take an oath to support the Constitution of the United States. He suggested, as a modification of the amendment, the alteration of the phraseology of the third line, so as to read—“*legislative, executive, and judicial*”.

Mr. INGERSOLL accepted the modification.

Mr. MERRILL asked, if all the powers proposed to be granted to each

of the three departments were to be enumerated. Without such an enumeration, the difficulty would not be removed, and powers of doubtful character would still be exercised by two departments. But, if they were enumerated, and any mistake should be made in the catalogue, another Convention must be called to remedy the error. He asked whether we were to go on, and enumerate specifically, all the powers which were to be exercised by the several departments. The Constitution of the United States was one of limited powers, and those powers not granted by it are reserved. He wished to know whether we were to grant all powers in mass, or make a catalogue of them.

The committee here rose and reported progress.

The Convention adjourned.

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MONDAY, MAY 29, 1837.

The PRESIDENT laid before the Convention the following communication from the State Treasurer, in reply to a resolution of this body :

MAY 26, 1837.

In accordance with a resolution of the Convention, calling on the State Treasurer to communicate a complete view of the "expenditures, income, debts, and property of the Commonwealth, and, also, a precise statement of the sums received, or receivable from banks as a bonus, dividend, or otherwise, and, also, a statement of all such sums as were received during the last financial year, as taxes of all kinds":

The following report is submitted with respect to the first and second inquiries ; as to the receipts and expenditures, permit me to refer you to the annexed statement, marked A. and B. The two first items are liable to much fluctuation. The revenue may be increased by legislation on particular matters, and the expenditures may be increased, as is often the case, by large local appropriations. Such appears to have been the case last year, as the ordinary expenditures appear to have exceeded the ordinary receipts.

With respect to the third item, I will refer you to statement marked C., exhibiting the whole amount of premiums in the form of bonus, and also tax on bank dividends, received since 14th May, 1814, and dividends on bank stock. Statement marked D., contains the amount of State debt and State property. Statement E., shows the amount of taxes (proper) collected annually.

Which is respectfully submitted.

DAN'L STURGEON.

A.

REVENUE OF THE COMMONWEALTH.

Whole amount of revenue as reported by the Auditor General, for the last financial year, **\$3,804,643 54**

From which deduct the following, viz :

Premium on charter of Bank of the United States, specially applied to improvements, &c.	\$1,600,000 00
Loan per act 13th April, 1835,	414,700 00
Premium on loan,	7,776 94
	<hr/>
	<b>2,022,476 94</b>

Ordinary revenue of the State for the last year, **\$1,782,165 60**

Consisting of the following items :

Land and land office fees,	\$65,763 80
Auction duties,	9,900 00
Auction commissions,	67,160 58
Dividends on bank stock,	163,463 00
Dividends on bridge, turnpike and navigation stock,	39,760 02
Tax on bank dividends,	91,415 60
Tax on certain offices,	7,921 18
Tavern licenses,	52,547 97
Retailers' licenses,	46,984 42
Pamphlet laws,	212 77
Collateral inheritance tax,	20,484 97
Militia and exempt fines,	3,161 16
State maps,	14 50
Tin and clock pedlers' licences,	456 00
Hawkers' and pedlers' licenses,	2,106 75
Increase of county rates and levies,	193,360 63
Tax on personal property,	31,020 68
Canal and rail road tolls,	827,805 72
Premiums on bank charters,	119,673 12
Tax on writs, &c.,	25,727 94
Escheats,	477 37
Fees of the Secretary of State's office,	968 16
Miscellaneous,	1,779 26
	<hr/>
	<b>\$1,782,165 60</b>

B.

EXPENDITURES OF THE COMMONWEALTH.

Whole amount reported by Auditor General, for the last year, **\$3,675,638 11**

Deduct therefrom internal improvements and temporary loans, **1,649,217 45**

Ordinary expenditures, **\$2,026,420 66**

Consisting of the following items :

Interest paid by commissioners internal improvement fund,	-	-	-	-	-	-
Turnpikes, bridges, state roads, &c.,	-	-	-	-	-	-
Expenses of government,	-	-	-	-	-	-
Militia expenses,	-	-	-	-	-	-
Pensions and gratuities,	-	-	-	-	-	-
Education,	-	-	-	-	-	-
Loans,	-	-	-	-	-	-
Interest on loans pertaining to treasury,	-	-	-	-	-	-
Western penitentiary,	-	-	-	-	-	-
Eastern penitentiary,	-	-	-	-	-	-
House of refuge,	-	-	-	-	-	-
Pennsylvania claimants,	-	-	-	-	-	-
Conveying convicts,	-	-	-	-	-	-
Conveying fugitives,	-	-	-	-	-	-
Miscellaneous,	-	-	-	-	-	-

\$2,000

C.

PREMIUMS ON BANK CHARTERS.

	Received.
Bank of North America, paid to State Treasurer, 31st May, 1814,	\$120,000 00
Farmers' and Mechanics' bank, transferred five per cent. stock to the State, 1st of May, 1824,	70,000 00
Western bank of Philadelphia, one third of \$25,000 bonus, paid State Treasurer, on 25th April, 1833,	8,333 34
Merchants' and Manufacturers' bank of Pittsburgh, premium on sale of stock, 13th May, 1833,	59,797 89
Girard bank, the first instalment of bonus, \$1 paid 12th of June, 1833,	25,000 00
Manufacturers' and Mechanics' bank of Philadelphia, first instalment of bonus, paid 23d September, 1833,	5,000 00
Moyamensing bank, first instalment of bonus, paid 31st October, 1833,	4,166 67
Girard bank, second instalment of bonus, paid 14th June, 1834,	25,000 00
Towanda bank, premium on sale of stock, paid 18th of June, 1834,	6 17
Western bank of Philadelphia, second instalment of bonus, paid 22d July, 1834,	8,333 33
Manufacturers' and Mechanics' bank of Philadelphia, second instalment of bonus, paid 25th July, 1834,	5,000 00

	Received.	Receivable.
Moyamensing bank, second instalment, paid 31st October, 1834,	4,166 67	
Bank of Pittsburg, paid 3d of December, 1834,	16,534 65	
Lumberman's bank of Warren, first instal- ment of bonus, paid 9th of February, 1835,	833 33	\$6,666 67
Bank of Lewistown, premium on sale of stock, paid 11th June, 1835,	5,491 02	
Towanda bank, first instalment of bonus, paid 17th June, 1835,	1,250 00	
Girard bank, third instalment, paid 10th July, 1835,	25,000 00	
Manufacturers' and Mechanics' bank of Phi- ladelphia, paid third instalment 19th of September, 1835,	5,000 00	
Western bank of Philadelphia, third instal- ment, paid 24th September, 1835,	8,333 33	
Moyamensing bank, third instalment, paid 21st October, 1835,	4,166 66	
Harrisburg bank, premium of sale of stock, paid 12th of March, 1836,	12,083 09	
Bank of the United States, paid 14th March, 1836,	600,000 00	
Bank of the United States, paid 19th March, 1836,	100,000 00	
Bank of the United States, paid 11th April, 1836,	100,000 00	
Bank of the United States, paid 16th April, 1836,	50,000 00	
Bank of the United States, paid 30th April, 1836,	150,000 00	
Exchange bank of Pittsburg, 25th April, 1836,	61,355 91	
Towanda bank, second instalment, 20th June, 1836,	1,250 00	
Bank of Penn township, first instalment 20th June, 1836,	16,500 00	
Bank of the United States, 8th June, 1836,	100,000 00	
Bank of the United States, 13th July, 1836,	100,000 00	
Bank of the United States, 28th July, 1836,	88,000 00	
Bank of Pittsburg, premium on shares of stock, paid 23d July, 1836,	28,484 12	
Bank of the United States, part of seventh instalment of bonus, paid 8th of August, 1836,	62,000 00	
Bank of the United States, paid 20th August, 1836,	100,000 00	
Bank of the United States, paid 22d August, 1836,	50,000 00	
Bank of the United States, paid 6th October, 1836,	50,000 00	



	Received.	Receivable.
Bank of the United States, paid 31st October, 1836,	50,000 00	
Bank of the United States, paid 3d March, 1837,	50,000 00	
Bank of the United States, paid 20th March, 1837,	100,000 00	
Bank of the United States, paid 31st March, 1837,	150,000 00	
Girard bank, first instalment of bonus, paid 20th of March, 1837,	125,000 00	125,000 00
Berks county bank, paid bonus 29th of March, 1837,	10,000 00	
Bank of the United States, paid 10th April, 1837,	150,000 00	
Bank of the United States, paid 1st May, 1837,	50,000 00	
Bank of Penn township, paid 8th May, 1837,	16,500 00	
Manufacturers' and Mechanics' bank, Northern Liberties, Philadelphia, paid 22d May, 1837,	30,000 00	
Bank of the United States, 20th May, 1837,	500,000 00	
Bank of the United States, \$100,000, payable 1st of June, 1837; and the like sums on each succeeding first Monday in June, for eighteen years thereafter,		1,900,000 00
Mechanics' bank, Philadelphia, 1000 shares in Pennsylvania and Ohio canal, per 3d section of act of 15th April, 1835, or in lieu thereof,		100,000 00
Franklin bank of Washington, \$7,500, payable within one year after the bank shall go into operation, and \$7,500 when the remaining stock shall be called in,		15,000 00
Philadelphia bank, per act of 1st April, 1836,		20,000 00
Honesdale bank of Wayne county, per act of 18th March, 1836,		5,000 00
Williamsport bank, per act of 3d April, 1837, five per cent. on capital of \$200,000,		10,000 00
Bank of Susquehanna county, per act of 3d April, 1837, in three instalments,		3,000 00
Towanda bank, third instalment, payable June, 1837,		1,250 00
	<u>\$3,302,586 18</u>	<u>2,185,916 67</u>

## RECAPITULATION.

Bank of North America,	\$120,000 00
“ Farmers' and Mechanics',	70,000 00
“ Western, Philadelphia,	25,000 00
“ Merchants' & Manufacturers, Pittsburg,	59,797 89

	Received.	Receivable.
" Girard,	200,000 00	\$125,000 00
" Manufacturers' and Mechanics', Philadelphia,	15,000 00	
" Moyamensing,	12,500 00	
" Towanda,	2,506 17	1,250 00
" of Pittsburg,	45,018 77	
" Lumbermans', of Warren,	833 33	6,666 67
" Lewistown,	5,491 02	
" Harrisburg,	12,083 09	
" of the United States,	2,600,000 00	1,900,000 00
" Exchange, of Pittsburg,	61,355 91	
" Penn township,	33,000 00	
" Berks county,	10,000 00	
" Manufacturers' & Mechanics', Northern Liberties, Philadelphia,	30,000 00	
" Mechanics', of Philadelphia,		100,000 00
" Franklin, of Washington,		15,000 00
" Philadelphia,		20,000 00
" Honesdale, of Wayne county,		5,000 00
" Williamsport,		10,000 00
" Susquehanna county,		3,000 00

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**\$3,302,586 18 \$2,185,916 67**

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**TAX ON BANK DIVIDENDS, PAID INTO THE TREASURY, PURSUANT TO ACT OF 21ST MARCH, 1814.**

1815, amount received by State Treasurer,		\$4,550 52
1816, do. - do. - -		31,263 04
1817, do. - do. - -		29,535 23
1818, do. - do. - -		37,631 37
1819, do. - do. - -		37,852 00
1820, do. - do. - -		28,450 36
1821, do. - do. - -		22,294 51
1822, do. - do. - -		22,670 44
1823, do. - do. - -		20,840 24
1824, do. - do. - -		24,711 70
1825, do. - do. - -		22,509 50
1826, do. - do. - -		23,272 08
1827, do. - do. - -		23,466 34
1828, do. - do. - -		29,649 51
1829, do. - do. - -		53,184 07
1830, do. - do. - -		20,112 83
1831, do. - do. - -		30,572 98
1832, do. - do. - -		43,761 41
1833, do. - do. - -		45,404 91
1834, do. - do. - -		74,148 12
1835, do. - do. - -		68,508 13
1836, do. - do. - -		91,415 60

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**\$785,804 89**

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## DIVIDENDS ON BANK STOCK, UP TO 1ST OF MAY, 1837.

Bank of Pennsylvania,	-	-	-	-	-	\$4,554,592 50
“ Philadelphia,	-	-	-	-	-	944,604 00
“ Farmers’ and Mechanics’	-	-	-	-	-	184,870 50
						<u>\$5,684,067 00</u>

## D.

## PUBLIC DEBT.

Loans not pertaining to canals and rail roads,	\$1,680,000 00
Loan to Eastern penitentiary, per act of 21st March, 1831.	120,000 00
Loan to Union Canal company, 1st March, 1833,	200,000 00
Debts due by appropriationr, &c. to miscellaneous objects,	502,304 23
Debts pertaining to public improvements by canals, rail roads, &c.	22,229,003 32
	<u>\$24,731,343 55</u>

## PUBLIC PROPERTY.

Bank stock,	\$2,108,700 00
Turnpike and bridge stock,	2,597,098 50
Canal and Navigation stock,	410,000 00
The public works, canals and rail roads, and bridges connected therewith,	22,991,003 32
To which may be added the balance in the Treasury on the first of May, 1837,	\$1,904,209 19
	<u>30,011,011 01</u>
To which was also added by the late Treasurer the estimated amount of monies due on lands,	1,000,000 00
	<u>\$31,011,011 01</u>

## E.

## TAXES OF THE COMMONWEALTH.

Report of the Auditor General of the whole amount of the revenue of the State	\$3,804,642 54
Deduct therefrom the following items which cannot be included in taxes, to wit:	
Loans,	\$414,700 00
Premiums on loans,	7,776 94
Premiums on bank charters	1,719,673 12
Dividends on bank stock,	163,463 00
Canal and railroad tolls,	837,805 72
Dividends on bridge, turnpike and navigation stock,	39,760 02
	<u>3,183,178 80</u>
Balance,	<u>\$621,463 74</u>

Which balance may be considered as taxes of the State made up of the following items:

Lands and land office fees,	-	-	-	\$65,763 80
Auction commissions,	-	-	-	9,900 00
Auction duties,	-	-	-	67,160 58
Tax on bank dividends,	-	-	-	91,415 60
Tax on certain offices,	-	-	-	7,921 18
Tavern licenses,	-	-	-	52,547 97
Retailers' licences,	-	-	-	46,984 42
Pamphlet laws,	-	-	-	212 77
Collateral inheritance tax,	-	-	-	20,484 97
Militia and exempt fines,	-	-	-	3,161 16
State maps,	-	-	-	14 50
Tin and clock pedlers' licences	-	-	-	456 00
Hawkers' and pedlers' licenses,	-	-	-	2,106 75
Increase of county rates and levies,	-	-	-	193,360 63
Tax on personal property,	-	-	-	31,020 68
Tax on writs, &c.	-	-	-	25,727 94
Escheats,	-	-	-	477 37
Fees of the Secretary of State's office,	-	-	-	968 16
Miscellaneous,	-	-	-	1,779 26
				<hr/>
				\$621,463 74

Which was laid on the table, and ordered to be printed.

Mr. SHELLITO, of Crawford, presented a memorial from inhabitants of Crawford county, for the introduction into the fundamental law, of some restrictions on the power of banking, corporations, &c.

Mr. RITER, of Philadelphia, presented two memorials of similar import, from citizens of the city and county of Philadelphia.

These memorials were laid on the table.

Mr. INGERSOLL, of Philadelphia, submitted the following resolution, which was laid on the table, and ordered to be printed:

*Resolved*, That the fifth article of the Constitution be amended as follows, viz:

I. The Judicial power shall be vested in one Supreme Court of fifteen Judges, County Courts of one Judge for every thousand neighboring people, and a Justice of the Peace for every neighboring people, with all such authority, legal and equitable, as the Legislature may grant, and such other Courts, Judges or Justices of the Peace as may be created by law, but no law altering otherwise than by enlarging the Judicial system fixed by this Constitution, shall be valid, without the concurrent votes of two thirds of the Legislature, and the Governor's approval.

II. The Supreme Court shall have jurisdiction over all suits and crimes. Three of the Judges thereof shall, in rotation of the whole fifteen, hold two sessions annually, at Philadelphia, Harrisburg, and Pittsburg, each for determining matters of law, while the other twelve Judges, in like rotation, shall hold Circuit Courts twice a year, in each county of the State, for trying matters of fact according to particular provisions by law, but no law shall abolish the Circuits.

III. County Judges shall hold Courts of Common Pleas, Quarter Sessions, Orphans', Register's, and all other Courts necessary for taking cognizance of all crimes, misdemeanors, and suits, for more than fifty, and not more than one thousand dollars. Provision shall be made by law for assigning all crimes of the most dangerous kind, and all suits for a thousand dollars or more, to the jurisdiction of the Supreme Court for trial, together with appellate and revisionary cognizance of all crimes and suits.

IV. Justices of the Peace shall have cognizance to institute prosecutions for all offences, and exclusive original jurisdiction of all suits for not more than fifty dollars. And all Judges shall have power to institute prosecutions.

V. There shall be a reporter of the proceedings of the Supreme Court, who shall hold no other office, nor practice law while reporter, who shall attend all the Sessions of that Court in banc, and write down all their proceedings, which he shall publish in print, within three months after the close of each session, and within that time deposit, free of expense, with the Secretary of the Commonwealth, as many copies of his printed reports as will furnish the Executive with six copies, the Legislature with twenty, and each Judge of the State with one.

VI. The Chief Judge shall be paid quarterly four thousand dollars, and each of the other Judges of the Supreme Court three thousand five hundred dollars a year, and the reporter not less than two thousand dollars a year, but no judge shall receive any other perquisite, allowance or emolument, than the said salaries. Justices of the Peace shall be compensated by fees fixed by law, and no Judge or Justice of the Peace shall hold any other civil office.

#### ORDER OF THE DAY.

All the preceding business having been disposed of, the report of the committee of the whole, on the fourth article of the Constitution, came up for consideration, when,

On motion of Mr. CLARKE, of Indiana, the further consideration of this article was postponed.

#### FIRST ARTICLE.

The Convention then resolved itself into committee of the whole, Mr. PORTER, of Northampton, in the Chair.

The question being on the motion of Mr. INGERSOLL, of Philadelphia, to strike out the first section, and insert his substitute as modified.

The CHAIR: (Mr. PORTER, of Northampton,) said—In presiding over this committee, it is my duty, applying the rules of the Convention as far as they are applicable, “to preserve order and decorum, and in debate to prevent personal reflections, and confine members to the question under discussion”. In the performance of this duty, I will, therefore, without reference to any thing which has heretofore occurred, require of the gentlemen addressing the Chair, a strict conformity to this rule; and I trust, after this intimation, that no occasion may occur requiring me to remind gentlemen of it.

Mr. DENNY, of Allegheny, moved to amend the amendment, by striking out the last word “directs,” and inserting, in lieu of it, the word “authorizes,” which Mr. INGERSOLL accepted as a modification of the amendment.

Mr. DUNLOP also suggested a change in the phraseology, which was accepted by the mover as a modification, and the amendment was made to read as follows:

“The respective powers of Government, legislative, executive, and judicial, are, by this Constitution, severally distributed and established, in three distinct branches, viz: the legislative, the executive, and judicial; neither of which separate branches shall exercise the authority of either of the others, except where this Constitution so authorizes”.

Mr. MACLAY said he would take this occasion to state in a few words, the reasons which would govern him in voting on the proposition under consideration, as well as on all other propositions, which might be submitted to this Convention for effecting alterations in the Constitution. He subscribed, he said, to the doctrine which had been advanced by several

members of the Convention, that no changes in our Constitution ought to be made, except such as were so plainly expedient, that there could be no reasonable doubt about them. A member of the Legislature, assembled under the provisions of the Constitution, may vote either for or against any measure proposed, as the reasons for or against it may seem to preponderate. But something more than this, he contended, was required, when we are called upon to vote for changes in our Constitution. As the Constitution is the supreme law, and entitled, in several respects, to a pre-eminence over the common laws passed by the Legislature, so the reasons for any change in its provisions ought to be proportionably strong.

He was, besides, he said, opposed to many changes in the Constitution, on the ground of their injurious tendency. In all Governments that are intended to be permanent, there ought to be certain principles held sacred, and which the people should be accustomed to consider as fixed and unalterable. But, frequent or numerous changes in the Constitution tended to unsettle every thing. They tended to destroy respect and veneration, as well for those parts of the Constitution which were not changed, as for those that were.

There was another consideration, he said, which induced him to lean against many changes in the Constitution. It was this—the impossibility of being able to determine beforehand, what would be the effect of such changes: even changes which, at first view, might produce important results. We have all seen, said he, laws and acts of the Government, both of our own State and of the United States, which have been attended with consequences altogether unexpected. There was, in fact, no telling what would be the result of an experiment until it was tried.

With regard to the proposition immediately before the committee, he would only observe, that he had heard nothing said in its favor, which at all convinced him that it ought to be adopted. On the contrary, he felt satisfied that the Constitution as it now stands, is better than it would be with the proposed amendments. He should, therefore, give his vote against it.

The CHAIR then put the question, and stated that the noes appeared to have it. A division was called for, when

Mr. CLARKE, of Indiana, rose, and said he had hoped that the proposition would have been more favourably received. He was not about to inflict a speech on the committee. He was not prepared to do so. But one or two ideas had struck him, which satisfied him that the amendment ought to be adopted. True, the President had, on Saturday, taken the ground that no change ought to be made for the mere sake of change, or unless the necessity for it was obvious: and that if any change was made, it should be clearly demonstrated that it would be useful and beneficial to the public interest. Now, he thought this would be useful. At the moment, when he heard the proposition of the President, he would confess, he was strongly impressed with the similarity of the reasoning to that of the Sultan OMAR who, having taken the city of Alexandria, which possessed the most celebrated library in the world, was asked what was to be done with this library. His reply was, if the books contained what was in the Koran they were of no use; and if they did not, they ought to be destroyed—therefore, they were destroyed. The Sultan's mode of reasoning was somewhat similar to that of the President. The



them each in its proper sphere. Our's is a Government of checks and balances, and it is important that they should always be preserved. Now, sir, that the Legislature of a country must possess great power. I also think that it must exercise great power: but it is this growing disposition to encroach on the other departments of the Government, of which I am afraid—this disposition to swallow up the other branches under the pretext of exercising this remedial power. In looking over the different amendments on Saturday, I found that in fourteen or fifteen of the States, a clause is introduced, and in nearly the same words, declaring the branches separate and distinct; why then should this Convention not adopt the clause? He hoped that it did not arise from a settled opinion in this nation to make no change. We came here (continued Mr. C.) for such changes as seem to us to be good and proper, and I am prepared to vote for such. I will look at the merits of every proposition, without regard to the party that offers it; because I think that all changes which are reasonable ought to be adopted, and that we are not to act merely on the ground that this or that provision can work no harm. I do not go for this amendment on that ground, but to let it be seen that the people desire to have several branches separate and distinct, and not to let any one encroach on either one of the others. I hope the committee will not reject the amendment.

FLEMING, of Lycoming, rose to say a single word.

BANKS, of Mifflin, interfered for the purpose of asking the mover of the amendment to modify it, so as to leave out all after the word "Judiciary."

INGERSOLL said he could not accept that modification.

FLEMING resumed: His objections to the proposition were simply to the extent of the independence of each. The amendment stated that the three branches shall be independent of each other. He wished to know, before he could vote for it, the extent of the independence of each. The latter part of the amendment was particularly objectionable to him; neither was to exercise the powers of either of the others, "except where this Constitution so directs."

The extent of the independence of each, therefore, was to be determined by some future provision in the Constitution, and he wished to see that provision before he could vote for the amendment. He desired to see something like a schedule of powers, so that he might not be working about his head in a bag, not knowing what he was about. What good reason was there that something like chancery powers should not be given to the Legislature, so that this body should have the authority of a Chancellor over the other branches. He would ask the learned gentleman how he got along before, when the powers of an equity Court were not sufficient to relieve an individual. There was no remedy but by an application to the Legislature. Instances are to be found where it had become necessary for the purpose of protecting the rights of an individual, to go to the Legislature for relief. If it were settled that the three branches should be mutually independent, and not interfere with each other, he did not think the Convention could carry out a schedule of their separate and distinct powers.

INGERSOLL said the division would be carried out.

FLEMING replied that this carrying out was a difficulty not to be overcome. It would be obvious to every gentleman who attended to the

balance between the different branches of the Government had been overthrown by the encroaching and overwhelming power of the Legislature, which must be the strongest from the nature of its construction; and as the strongest man will always hold on to all the power he possesses, and will grasp all he can obtain from the weak, so it is with the Legislature. There has been always a strong, and for a long time, a growing disposition in that branch to exercise what is called the remedial power. The Legislature claims it, and of late years, and (said Mr. C.) I blame not one party more than the other, or one Legislature more than another, but so it is, I believe, for many years back, the application of this power by the Legislature has, in an especial manner, infringed on the duties of the Judiciary, and in some degree on the sphere of Executive duties. He thought the declaratory clause highly appropriate, that each department should act in its own sphere, and that each one should be a check on the others. The remedial power had been exercised so much by the Legislature, that the eyes of the whole Commonwealth were turned on that branch as the one which was to be applied to for the remedy of all grievances. Every man (said Mr. C.) who imagines he has a grievance, which ought to be settled by the Judiciary, and under the authority of some general law, comes to the Legislature, fills the galleries and the lobbies with his friends, and tells a fine tale about the great hardship of his case; and then there is so much of the milk of human kindness in the bosoms of the members—and as the money does not come out of their own pockets, but from the public treasury—that his story seldom fails to obtain for him the relief he desires: and thus thousands after thousands are voted away. Instead of this course of things the remedy for grievances should be administered under the operation of known laws, and wherever doubts arise the settlement of those doubts should be left to the Judiciary. The Legislature has, and the fact is notorious, got to infringing on the other branches; and it is high time that the Constitution should apply a remedy, and declare, in the outset, that the different branches are separate and distinct, and thus interpose a barrier between them which will prevent one from encroaching on the others. Better is it that the laws should be known, and the law-makers unknown. If laws are made which the people know they must abide by, it is far better for the interests of the Commonwealth, than that individuals should fall into the practice of coming to the Legislature, calculating on the success of their powers of persuasion on the good nature of the members; as I have often heard it said on the floor of the House, the reason why a man does not go into Court is because it costs him too much money. He would be very willing to go there, but it costs too much. By his own powers of speech, or perhaps by a mere letter, he can obtain what he wishes here, while he would require an attorney to attend to the business at home, where his immediate neighbors would be cognizant of all the circumstances, and would know on which side the wrong lay. Again, on the subject of divorces; how many applications for divorce succeed here, which in a Court of Justice would not be able to stand for half an hour. The Legislature had been assuming powers, one after another, until the eyes of the whole Commonwealth were directed towards it, as the great dispenser of favors, administering all the beneficent action of the Government; and while this department is magnified, the others are diminished in the public estimation. The secret of liberty depends on

keeping them each in its proper sphere. Our's is a Government of checks and balances, and it is important that they should always be preserved. I know, sir, that the Legislature of a country must possess great power. I know also that it must exercise great power: but it is this growing disposition to encroach on the other departments of the Government, of which I complain—this disposition to swallow up the other branches under the pretext of exercising this remedial power. In looking over the different Constitutions on Saturday, I found that in fourteen or fifteen of the States, the same clause is introduced, and in nearly the same words, declaring the several branches separate and distinct; why then should this Convention refuse to adopt the clause? He hoped that it did not arise from a settled determination to make no change. We came here (continued Mr. C.) to make such changes as seem to us to be good and proper, and I am prepared to vote for such. I will look at the merits of every proposition, not at the party that offers it; because I think that all changes which are wholesome ought to be adopted, and that we are not to act merely on the principle that this or that provision can work no harm. I do not go for this amendment on that ground, but to let it be seen that the people desire to keep the several branches separate and distinct, and not to let any one branch encroach on either one of the others. I hope the committee will agree to adopt the amendment.

Mr. FLEMING, of Lycoming, rose to say a single word.

Mr. BANKS, of Mifflin, interfered for the purpose of asking the mover of the amendment to modify it, so as to leave out all after the word "Judiciary".

Mr. INGERSOLL said he could not accept that modification.

Mr. FLEMING resumed: His objections to the proposition were simply these: The amendment stated that the three branches shall be independent of each other. He wished to know, before he could vote for it, the precise extent of the independence of each. The latter part of the amendment was particularly objectionable to him; neither was to exercise the authority of either of the others, "except where this Constitution so directs". The extent of the independence of each, therefore, was to be defined by some future provision in the Constitution, and he wished to see that provision before he could vote for the amendment. He desired to see something like a schedule of powers, so that he might not be working about with his head in a bag, not knowing what he was about. What good reason was there that something like chancery powers should not be given to the Legislature, so that this body should have the authority of a Chancellor over the other branches. He would ask the learned gentleman how they had got along before, when the powers of an equity Court were not sufficient to relieve an individual. There was no remedy but by an application to the Legislature. Instances are to be found where it had become necessary for the purpose of protecting the rights of an individual, to go to the Legislature for relief. If it were settled that the three branches should be absolutely independent, and not interfere with each other, he did not see how the Convention could carry out a schedule of their separate and distinct powers.

Mr. INGERSOLL said the division would be carried out.

Mr. FLEMING replied that this carrying out was a difficulty not to be gotten over. It would be obvious to every gentleman who attended to the

practice of the Courts that there would be an immense difficulty in fixing a precise standard, a schedule by which the different branches would be regulated. The difficulty would be endless. Constitutional objections would be constantly springing up, and constitutional arguments would become the order of the day. Discussions of that kind are exceedingly uncertain: they might be very valuable on the score of the advantage which the profession derived from them; but he never had a taste for constitutional discussions, which had become so much the practice of late years, and, for which, he acquired a disrelish in early life. He hoped the gentleman from Philadelphia would point out precisely the extent of powers which each branch might legitimately exercise, before he asked him to vote for the amendment. Unless the powers of each were accurately and plainly defined, it appeared to him, that there would be perfect confusion. If the gentleman from Philadelphia could satisfy him that there would be no difficulty, that the different branches could easily be separated so that the authority pertaining to each could be distinctly appropriated and exercised, he would be glad to vote for the amendment; otherwise, he would be compelled to vote against it.

Mr. BELL, of Chester, said it was with great reluctance and unfeigned regret, that he differed from the gentleman from Philadelphia, for whose great talents, and ripe and experienced judgment, he entertained a profound respect, but the high and important character of the duties assigned to him in this Convention would not permit him to be led astray by the strength of personal feelings. He was himself a reformer; and this, he thought it proper to avow, to prevent misapprehension. In all cases where it was proper and beneficial to reform, he would faithfully lend his efforts; but, on the other hand, he was a conservative unless his judgment was convinced, and his reason satisfied, as to the propriety of change. He agreed in the observations of the gentleman from Philadelphia, that the people required some amendments of the Constitution; but what they required to be done, was, so far as he had informed himself on the subject, simple in its character, easily understood, moderate in extent, and easy to be provided for. As far as he could understand the public will, such was the fact; and he felt himself prepared, in all cases, to surrender any private opinions which he might have formed in reference to amendments, to the public will. But he must first be convinced that the changes were called for by that people whose Constitution it was the object of this Convention to amend.

He was opposed to the introduction of any amendments which were uncalled for by the people. He was in favor of no change which was not necessary, and of none which was not amendatory. He would give his assent to no new matter, unless he could see the result of its introduction, and how far it would advance the prosperity and happiness of the people. The proposition of the gentleman from Philadelphia, was either new in itself, or it was not new. In either point of view, the proposed alteration was objectionable. If it was not new, then it was inoperative. If it was new, it must be intended to effect some change, and to distribute the powers of the Government among the departments in a manner that would detract from or add to those powers as now exercised. Was there not now a practical distribution of powers under the present Constitution? Had there not been, since the formation of the Constitution of '90, a pro-

per distribution of power, though not provided for in terms? Had not each branch of the Government discharged its proper duties, and how had it happened that either branch had encroached upon the other? It was said that the Legislature had usurped authority belonging to another branch of the Government. But the Legislature was the most powerful branch of the Government, and was necessarily and properly so, in a representative democracy. It was impossible that the people should exercise in their own persons the sovereign power, and they invested it in their immediate representatives. A residuum of power was necessarily left with the Legislature, and if we undertook to restrain them in its exercise, no man could tell how far it might interfere with the performance of their high functions. Who composed the Legislature of Pennsylvania? A part and portion of the people—taken from the mass of the people, responsible to them for all they do and say, and that yearly. Who were injured by injudicious legislation? The people, and with them, the legislators themselves. But the remedy can be exercised yearly, and any corrupt or injudicious legislation may be promptly remedied and punished. Looking at the proposition as new, and as intended to make a new distribution of power, it must be considered as an attempt to restrict the legislative department, in regard to those powers which it has exercised, and ought to exercise. The proposition is to distribute and establish the respective powers of Government in three distinct branches, viz: Legislative, Executive, and Judicial, “neither of which separate branches shall exercise the authority of either of the others, *except where this Constitution so directs*”. Now, does the gentleman expect to reach, and explain, and settle all the minutiae of legislation by Constitutional provisions. Does he expect to anticipate and provide for all the exigencies that can arise in the course of time, in so extensive and increasing a community as this? Can we prescribe, for all time to come, the exact limits and subjects of legislative action? But what was the evil complained of, and which it was proposed, by this extraordinary innovation, to remedy? The Legislature, it was said, had shewn a disposition to corrupt the powers of other branches of the Government. But what were the cases cited in support of this allegation? One was an attempt, on the part of the Legislature, to prevent a fraud, a gross fraud, and to give to honest people their due. This was the case of judicial legislation, which had been so strongly urged—the act of 1826 in relation to the evidence of the conveyance of real estate by *femes covert*. Was that an act to repeal and annul a decision of the Supreme Court? Did it make a retrospective rule? Not at all. It merely altered the law of evidence, and provided that what the law required to be proved in one way, might be proved in another. I know no single case, (said Mr. B.) where the Legislature of Pennsylvania has usurped any power. Are we to provide a remedy for the usurpation of power? The remedy is in the people, and we have no right to trammel and limit the legitimate exercise of power in cases where the happiness of the people demands it. He had before remarked that he would accept of no amendment which was not clearly required by the public interests. In looking over the resolutions offered by the gentleman from Philadelphia, and which present a project of a new Constitution, he found that the first article corresponded with the amendment now under consideration, and that it was followed up by article second applying the restrictions of the first article to the Legislature.



Now, could the gentleman tell us what was to be the operation of his amendment on the Legislature of the Commonwealth? Could he point out all its effects? If not, I am unwilling (said Mr. B.) to try the experiment. I have the highest possible respect for the gentleman's learning, legal acquirements and character; and, if any man can anticipate the practical effects of a change in our Constitution, I believe that he can. If he, or any one, can assure me of the beneficial effects of this measure, and dissipate my fears in regard to its operation, I will cheerfully vote for it.

Mr. ROGERS, of Allegheny, said: Regarding the present subject of discussion as one of great importance, I shall beg the indulgence of the committee while I trespass for a few moments upon its attention. I do so with unfeigned reluctance, and with a great degree of embarrassment. When I behold the learning, eloquence, the high professional capacity, the legislative experience, and that knowledge, better than any found in books, which comes from three score years and ten, which adorns and elevates this Convention, I cannot expect that any thing I could say would attach to itself much weight or influence.

Sir, if there is any one principle which has been established by elementary writers upon Government, it is, that the three great departments of power, the Legislative, the Executive and Judiciary, should be kept separate, distinct, and independent of each other. That principle, so essential a safeguard to liberty, has been fully demonstrated by the celebrated MONTESQUIEU, it breathes throughout every page of Mr. ADAMS' treatise upon republics; it is clearly enforced in the eloquent disquisitions of Mr. MADISON and Mr. HAMILTON, in the Federalist.

But, in my opinion, a still higher authority is to be found in a draft of a Constitution, prepared by an illustrious statesman for the Commonwealth of Virginia. I mean THOMAS JEFFERSON, a name revered by every lover of his country as the author of the Declaration of Independence, and as one of the founders of this glorious union of States. That Constitutional provision, as published in his Notes upon Virginia, is in the following words, and is very similar to the proposed amendment of the gentleman from Philadelphia:

“The powers of Government shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit: those which are judiciary to one department, those which are legislative to another, and those which are executive to another. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instance hereinafter expressly permitted”.

Sir, the reasons for the perfect separation of the powers of Government have been most fully developed by that distinguished man, and exhibit the great danger that is to be apprehended from the encroachment of the Legislature upon the other powers of Government. He thus expresses himself, and illustrates his positions by a reference to the peculiar situation of Virginia at that time:

“The concentrating the legislative, executive, and judiciary, in the same hands, is precisely the definition of despotic Government. It will be no alleviation that these powers will be exercised by a plurality of hands, and not by a single one, 133 despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the republic of Venice.



As little will it avail us that they are chosen by ourselves. An *elective despotism* was not the Government we fought for, but one which should not only be founded on free principles, but in which the powers of Government should be so divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits, without being effectually checked and restrained by the others. For this reason, that Convention which passed the ordinance of Government, laid the foundation, on this basis, that the legislative, executive and judicial departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between the several powers. The judiciary and executive members were left dependent on the Legislature for their subsistence in office, and some of them for their continuance in it. If, therefore, the Legislature assume executive and judiciary powers, no opposition is likely to be made, nor, if made, can be effectual: because in that case they may put their proceedings into the form of an act of assembly, which will render them obligatory on the other branches. They have accordingly, in many instances, decided rights which should have been left to judicial controversy; and the direction of the executive, during the whole time of their session, is becoming habitual and familiar”.

Sir, the amendment proposed, is sustained by the concurrent testimony of our sister States in the Union. Fourteen out of the twenty-six States have made a complete and separate distribution of powers in their Constitutions. One of them, the State of Virginia, I regard as an illustrious example in the support of the principle. That State was the last, I believe, but one of the old thirteen, to revise her fundamental law, and remodel her political institutions. The Convention that assembled, had the aid of revolutionary experience, and great statesmanlike abilities. In that Convention were exhibited, the mild philosophy of a MADISON, the revolutionary integrity and patriotism of a MONROE, and the judicial learning of a MARSHALL. Many others, too, were there, eminent for their talents; the RANDOLPHS, the BARBOURS, the TAZEVELLS and a LEIGH—the last of whom, although I differ from him in political views, I consider equal in legal learning to any one in the United States. Yet I find emanating from that assemblage of wisdom and intelligence, an amended frame of Government, the result of long and anxious labor, containing the following provision as a second article:

“The Legislative, Executive, and Judiciary departments shall be separate and distinct, so that neither exercise the power properly belonging to either of the others; nor shall any person exercise the power of more than one of them at the same time, except that the Justices of the Peace shall be eligible to either house of Assembly”.

The learned gentleman from Chester (Mr. BELL) has asked the question, if any one can point him to a case where the Legislature of Pennsylvania has ever exercised judicial power? Let me refer that gentleman to the records of the last Legislature, where he will find that that body set aside a judgment of a court in Fayette county and directed a new trial by jury! Let me refer him to the case of SATTERLEE against MATHEWSON, in PETERS' Reports, where JUDGE WASHINGTON, in delivering his opinion, used the following language in relation to an act of the Legislature of Pennsylvania:

“ Now this law may be censured as an unwise and an unjust exercise of legislative power ; as retrospective in its operation ; *as the exercise by the Legislature of a judicial function*, and as creating a contract between parties where none previously existed ”.

Sir, I am not disposed to confer too much power, or to repose too much confidence in the Legislature. A department of Government which, if there be any truth in history, has ever been the most disposed to invade and usurp other powers. Sir, the experience of every one will test the truth of the observation, that it is an unsafe depository of any portion of judicial power. Legislative bodies sometimes act under the impulse of strong and sudden excitement ; sometimes inadvertently ; sometimes the good intentions of the many, are misled by the management of the few, and sometimes corruption poisons the pure fountains of justice.

Sir, what has been the tendency of the argument of the distinguished gentleman from the city of Philadelphia, (Mr. SERGEANT) but to clothe the Legislature of the State with chancery powers ? Sir, I am willing, at any time, to vote for a court of chancery, if justice cannot be administered without it ; but I am opposed to leaving any such power in the hands of inexperienced legislators, much less a power to overturn the decisions of courts, and to array the Commonwealth against the rights and liberties of an individual. Sir, I wish to see, in the very front of our amended Constitution, the great departments of power accurately divided and perfectly distributed, defined and restrained. I wish, if possible, that there should be no doubt, no obscurity on the subject. Sir, what has caused the memory of CALIGULA to be consigned to undying infamy, but the circumstance, as narrated by DION CASSIUS, that he directed the laws to be written in small letters, and to be hung so high that the people could neither read nor understand them ? I wish nothing concealed from the people, but that every legislator, every judicial functionary, every executive officer, may know his rights and strictly perform his duties.

Power is ever to be regarded with suspicion and distrust. History with its impressive lessons most forcibly teaches us, that it will now and then break over all mere parchment barriers and fences, and mock the efforts of the people to restrain and confine it. With what sedulous care and anxiety should we then endeavor to curb and restrict it by proper Constitutional limitations and boundaries ?

Let us send forth, then, as the work of our hands, a Constitution not only improved in the beauty, symmetry and strength of its parts ; but embodying those wise and salutary amendments that shall enshrine it in the affections of the people. A Constitution that they can love, respect, and venerate as the palladium of their rights, and the great charter of their liberties.

Much has been said in the course of this discussion, of the high character of the men who composed the Convention of 1790. I respect the virtues, I admire the characters of the men of that Convention, as much as any one. I believe they were pure in their motives and honorable in their actions. They acted nobly their part for their country ; they deserved well of their country. Yet, sir, I believe, if that illustrious body of men could re-assemble in this Hall, with all their experience on the subject of Government, they would change this Constitution in many of its features.

It was said by Virginia statesmen, of the old Constitution of that State, that it had been the mother of mighty men. I would say of the Constitution of 1790, that it had been the destroyer of the great men of Pennsylvania. Sir, one of them, a very distinguished man, JAMES ROSS, who assisted as much as any other in building up this mighty fabric of accumulated Executive power, fell in the political convulsions growing out of it, pierced by the weapons he himself had fashioned, and the laurels torn from his brow by rude and violent hands. I look in vain upon the roll of eminent men—the list of Presidents and Vice Presidents—for any son of Pennsylvania. Sir, to what other cause is it to be attributed but to the violent and bitter feuds arising out of the excessive patronage of the Governor? Let us lop off the rank luxuriances of power; let us enlarge the rights and extend the liberties of the people. Then will Pennsylvania assume a lofty, honorable, and elevated position in the councils of the nation.

MR. DUNLOP: The gentleman from Lycoming, (Mr. FLEMING) though a very clear headed man, cannot, he says, see his way clearly in this business, unless we show him a distinct schedule of the powers which are to be given to each branch of the Government, and to the exercise of which they are respectively to be limited. But, if the gentleman would read the Constitution, the matter would be perfectly clear to him. He would then be as surprised as the boy was when his teacher showed him the letter A. Is it possible, exclaimed the boy, that this is A! For though he had heard a great deal about it he had never seen it before. The gentleman would find that the powers of our Government are already divided into three separate branches, and the proposition is merely to state this more distinctly on the face of the Constitution. The argument in support of this proposition, like that in favor of requiring an oath from every State officer to support the Constitution of the United States, might make very little impression at first, but if gentlemen would reflect upon it, he believed that when the whole Constitution came before us, on the second reading, in a tangible form, the proposition would be sustained. He hoped that the gentlemen from Lycoming would go for it yet.

Does any one doubt that the powers of our Government are now partially divided among three great branches? No, nobody doubts that. Need we refer to LOCKE, SIDNEY, MONTESQUIEU, or any of the writers on Government to prove that? Need we call in the aid of JEFFERSON, ADAMS' treatise on republics, and the Federalist, to learn that the powers of Government are divided into three branches? Call any yeoman from his plough, and he will tell you the same. It would require no reasoning to satisfy every man on that subject; but still gentlemen hesitate at expressing this principle in the body of the Constitution. Why should it not be expressed? Because it is not right and true? Can any gentleman say why it ought not to be expressed, plainly and explicitly? Would there be any harm in inscribing it in distinct terms on the face of the instrument? The gentleman from Chester (Mr. BELL) was apprehensive, if he understood him correctly, that the amendment would bring some new principle into the Constitution; but he appealed to any candid man whether it introduced or countenanced any new principle—any new distribution of power. It was objected, that the amendment would create some difficulty of Construction. How could this be the case, when the

principle was already recognized by the people, and expressed in the Constitution of the United States, and many of the State Constitutions? But where, it was asked, is the necessity for the introduction of the clause into the Constitution, if it will make no alteration in the distribution of power? But, he would ask in return, where would be the harm of saying that one branch of the Government shall not exercise the powers of another branch? No one wishes one branch of the Government to trench upon another, and yet we are forbidden to say that a department of the Government shall not do what every one admits it has no power to do, and ought not to do. Still gentlemen ask, what utility or benefit there will be in this provision. Do we not know, that men are affected by moral influences? This clause would have an effect upon many of those who would disregard the great leading principles of Government. Every one knows, that legislators feel themselves tied down, and bound by an express provision of a Constitution, which they have sworn to support, when they would not feel the power of the obligation, if the provision was not found there in a distinct form. There had been some prominent illustrations of this, in the history of our Legislature. There were gentlemen on this floor, who knew the fact that the militia trainings were about to be abolished by the Legislature as useless and absurd, when they were prevented from it by the clause of the Constitution, which requires that "the freemen of this Commonwealth shall be armed and disciplined for its defence". A difficulty once arose in regard to jury trials from the conscientious scruples of jury men. In some cases jurymen refuse to be discharged, because they had sworn to render a verdict. The consequence was, that the Legislature altered the form of the oath, so as to require juries to give a verdict unless discharged by the Court, or unless the cause is withdrawn by the parties. The Constitution of 1776 required every officer, whether judicial, executive, or military, under the Commonwealth, to swear that he would be true and faithful to the Commonwealth of Pennsylvania. But, was it not the duty of these officers to be true and faithful, without the oath, and did not the framers of the instrument know it? Why, then, did they require an oath? Because they wanted to see it in black and white, in order that it might stare every one in the face, and stand as a perpetual monitor of his duty. Further, that Constitution required every State officer to swear that he would "not directly nor indirectly, do any act or thing prejudicial or injurious to the Constitution or Government of the Commonwealth, as established by the Convention". How this oath affected the Council of Censors we all know. They held themselves bound by it not to change or alter that Constitution. The Legislature were under the necessity of passing an act on the subject, declaring that there was a reservation in the oath in regard to a revision of the Constitution. Gentlemen need not tell him, therefore, that oaths and express Constitutional provisions had no binding force, or that it was useless to provide for that which no one disputes. They found a rallying point for poverty and patriotism against party violence. It enabled legislators and public officers to say to their party friends, I cannot depart from the express declaration of the Constitution. I cannot violate my oath. It enabled party men to indulge in a feeling of independence, and to govern themselves by some proper and fixed principles, instead of giving themselves up entirely to the direction of party dictators. Why

do we ask a conscientious man to kiss the book, when we know that he will, as a witness, tell the truth, unless we wish to give an effect to the act which is as powerful as the light of truth itself? There was a clause in the Constitution of 1776 which required that "the House of Representatives of the freemen of this Commonwealth shall consist of persons most noted for wisdom and virtue". He did not know how well this provision was carried into effect in old times; but, of late years, he had seen legislators who never pretended to exercise any wisdom in the matters before them, but who looked to the little spot where their party leaders decided upon all measures to see what their wishes were. They could never vote upon a proposition, though it might be as clear as noon day, until they found out what TOM, DICK, and HARRY thought about it. He trusted there were no such Representatives here, engaged in the work of framing a Constitution for a great State. Here, he trusted, a man might stand,

"Lord of the lion heart, and eagle eye";

exercising his own judgment and discretion, without keeping an eye forever fixed upon the popularity vane at home.

He wished now to refer gentlemen to the proceedings of the Council of Censors for the opinion of some gentlemen who had formerly ruled, for the good of their country, the old democratic party, when it was in its pride and purity.

The committee of the Council appointed to enquire whether the Constitution had been preserved inviolate in every part, &c. reported, "That they have examined and investigated the proceedings of the legislative body of this State, and that they find various and multiplied instances of departure from the frame of Government". \* \* \* \* "The legislative power is vested in the representatives of the people in General Assembly, and the executive in a President and Council, and, from this last, for the greater security of the people, the judicial, of which it is a part, is again severed and rendered independent of both—thus wisely preventing an accumulation of power and influence, in the hands of one or of a few, which the history of mankind evinces ever to have been subversive of all public justice and private right, and introductive of the capricious, unsteady domination of prejudice, party, and self-interest, instead of the government of laws prescribed, promulgated, and known". \* \* \* "Hasty votes, too often in contradiction to express laws, solemnly enacted, we fear, have been too much countenanced in some instances, from a determination that the people should experience, practically, what extravagancies a single Legislature, unrestrained by the rules of the Constitution, may be capable of committing".

He would ask the committee to refer to the names of those who had given their sanction to these principles. They were the great leaders of the democratic party in after days. He solicited the attention of the gentleman from Chester—who had declared, that the Legislature of this State had never been guilty of usurping any authority—to some facts which were on record; and, he trusted, that upon examination of them, his candid mind would be satisfied that the natural result of bestowing powers, without express limitations, upon such a body as the Legislature, would be to induce them to grasp at all the authority within their reach. In one case,



the Legislature transferred the estate of one man, in Philadelphia, to another. While an ejectment was pending, in the Court of Common Pleas of Philadelphia county, in a case wherein one ISAAC AUSTIN was defendant, a law was passed to vest in ISAAC AUSTIN a real estate in the city of Philadelphia, claimed and possessed by one GEORGE ADAM BAKER, as his freehold. The act, moreover, commanded the sheriff to put Mr. AUSTIN in possession. He did not know who this Mr. AUSTIN was—probably some great party leader and favorite of his day—perhaps the gentleman from Philadelphia knew something of his genealogy. He submitted to the gentleman from Chester, whether this was not a case of clear and flagrant usurpation of judicial powers by the Legislature. What excuse could there be, in equity or justice, for so wanton a violation of private rights. The proceeding, as we see, called down the severe censure of the Council upon the Assembly. Such acts of usurpation were not peculiar to that day. As great and as flagrant outrages have been committed since, and under the present Constitution. He would state a few of the most glaring cases which occurred since 1790.

This great Legislative favorite, Mr. ISAAC AUSTIN, seems to have got every thing he asked for. The Assembly, not content with giving him one estate, must give him two. In 1781 he set up a claim to a forfeited estate of his brother's—alleged that he had tendered payment, and the House of Assembly declared that his claim ought to be allowed. In 1789, we find, that WILLIAM POLLARD complains of a verdict of a jury in the Supreme Court. The House refer his case to the committee on grievances, who report that "*he is aggrieved*"—by what?—by the tribunals of the country; and, upon his *ex parte* testimony, for it did not appear that the committee heard the other side, the House directed a stay of proceedings in the case.

He would ask gentlemen whether they would have a judge sitting gravely considering a case, when the individual interested could take the liberty of telling him he did not care a fig for his judgment, as he had the Legislature on his side? What condition would the country be placed in when you come to such a state of things? We have been told that the Legislature have passed many laws of this nature, which have done a great deal of good; but, sir, at the same time, how did we know but they did a great deal of harm. Does any gentlemen know of any of the effects of these laws, except in the cases on which they were founded. Would any body believe, that by the operation of the law passed for the relief of a worthy man in Chester county, an amiable family of females were turned out of their possessions, and thrown upon the cold charity of the world. Yes, sir, Mrs. MERCER had been in possession of property, in Lancaster county, for nearly twenty-one years, when the act of 1826 was passed, which turned her out of her possessions, and threw her upon the world without the means of support. Such are the effect of laws of this character; when they relieve one man, they do an irreparable injury to numerous families. While Mrs. MERCER was resting in perfect security, in the full possession of her property, under the laws of her country, a gentleman from Chester comes up to Harrisburg, with a piteous case, and gets a law passed to relieve him, and the moment that law is passed, another family, who knew nothing of the law, nor had no knowledge of its passage, were turned out of house and home by its operation; and, how



many more cases there may be of a similar nature, no man can tell. Well, sir, is the exercise of this power not trenching upon the Judiciary? Yes, sir, it is actually stepping into your courts, and telling them they shall not make such and such decisions. This kind of legislation had also a tendency to make your Judiciary subservient to the will of the Legislature. You compel them to decide, in some cases, perhaps, that this law is not an *ex post facto* law, and that that law only applies to criminal cases, when their better judgment would have told them the contrary. Suppose in the case of Mrs. MERCER, she had sold the property and got the money for it, and then this act had been passed, the result would have been, that the man who had paid for his land honestly, would have been turned off from it, and here would be a lasting injury inflicted upon an innocent, honest man, without his having any means of redress. In relation to the cases in the county of York, by the blundering of some of the county officers, a whole batch of judgments were found to be defective. Well, to cure the blunders of these officers, the Legislature passed a law to relieve the persons affected, but in the passage of that law he had, no doubt, there were vastly more persons who were injured by it than benefited. If such laws are necessary, he would pass a general law on the subject, and leave it in the hands of the Judiciary to settle the matter. In 1824, an act was passed to legitimize a number of children, whose mothers and fathers were dead, and by that law, the Legislature authorized them to take the property which had been owned by their parents, as though they had been born in lawful wedlock. Well, this was nothing more nor less than taking the property from the lawful owners of it, who were in possession of it. Was not this giving to A. what belonged to B.? Was not this trenching upon the rights of the Judiciary? And he would appeal to gentlemen to say, whether this was not doing two or three an irreparable injury, where it would be a benefit to one. Did not gentlemen know too, that at the very last session of the Legislature, a law was passed, forcing a court in Fayette county to open a judgment. Now, sir, it is almost impossible to imagine that the Legislature will so trench upon the authority of the Judiciary; yet, so it is, and we have the evidence of it before our eyes. This is saying to the Judiciary, we know a great deal more about this matter than you do, and we will let you know, that if you will decide a case contrary to our ideas of right, we will reverse your decision. Was not this trenching upon the authority of the Judiciary? But, if a clause of this kind was inserted in the Constitution, and a member of the Legislature would take God to be his witness, that he would not suffer the legislative authority to trench upon that of the Judiciary, he did not think there would be a man found to put his name to such a law as this. He, himself, had seen a hundred cases in the Legislature, where applications had been made to change the direction of a man's estate, just as though the man was not the best judge of the manner in which his estate should have been distributed. There are, too, almost every year, applications for the privilege of selling property left in trust. Very frequently, a young lady of wealthy parents marries a drunken husband, one who has not yet joined the temperance society, and her father, at his death, ties up the property in the hands of trustees, so that the husband cannot waste it. Well, the husband, after seeing in what condition the property is, reforms just long enough to come to Harrisburg, and get a law passed, authorizing

him to sell it, which, he says, is actually necessary to be done to support his family and school his children, and he promising to give security that a portion of it shall be retained for the children. When they grow up, however, they find, very frequently, their fathers dead, leaving nothing for them, and the security worse than nothing. Why, he had known of an instance where there were a hundred and fifty to the same bond, and every one of them were broken up before the money became due. All this was trenching upon the authority of the Judiciary, and making the judges the mere subservient tools of the Legislature. Mr. D. had heard a daring demagogue, in this Hall, not many years since, say that no judge dare declare any law unconstitutional, to which he put his hand. We all know that a judge may be removed for misdemeanor in office, but sir, he might also be removed by the Legislature, for running contrary to the will of such demagogues as the one he had just alluded to. Cases might arise, in which a judge would have to decide between the will of the majority of the Legislature, and a conscientious discharge of his duty. Perhaps, too, he may have a large family depending upon him for support, and the situation he has filled for years has totally disqualified him from pursuing any other profession, then would you place a judge in such an attitude, that he must either decide against his conscience, or throw himself out of employment and beggar his family?

Mr. HOPKINSON wished to say a few words in explanation of his views on this subject, and he must beg leave to differ with the gentleman from Allegheny, (Mr. ROGERS) and the gentleman from Franklin, (Mr. DUNLOP) as to the propriety of this amendment. His objection was not to the principle of the amendment, but to the necessity of it. He had said at a very early day, after the meeting of this body, that he would not consent to an alteration of a word or line of this Constitution, unless good reasons could be given why a change should be made. It has long been before the people, has passed, when doubtful, before Courts competent to decide upon its meaning, and has now, at last, at the end of near fifty years, received something like a known and settled construction. Every man knows the importance of having common acts of the Legislature correctly understood; and it is of still more importance that fundamental principles should be at some day settled. His objection then was, not as to the principle but as to the expediency and necessity of the amendment. What does it propose doing? In the language of the amendment itself, it declares that "the respective powers of Government, Executive, Legislative, and Judicial, are by this Constitution severally distributed and established in three distinct branches, viz: a Legislative, an Executive, and a Judicial, neither of which separate branches shall exercise the authority of either of the others, except where this Constitution so authorizes". Now, he would ask every gentleman, if this is not the case at present in the Constitution of Pennsylvania? Was it not so in form, and has it not always been so understood? Such was the amendment, now let us see what the Constitution is. The first section of the first article of the present Constitution reads as follows: "The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives". Well, sir, the legislative power is vested there—that is the whole legislative power, and nothing more. The legislative power is vested in a Senate and House of Representatives. Then the undoubt-

ed meaning is, that the whole legislative power is vested in the Senate and House of Representatives, and nothing more. So, when you come to the Judiciary, it means precisely the same thing. The judicial power is vested in a Supreme Court, &c. Well the judicial power, and nothing but the judicial power, shall be vested in this Supreme Court, and the other courts established by the Constitution; therefore, when the Constitution said, that the Senate and House of Representatives shall have the legislative power, did it not say that it should not have the executive power, and would an express declaration make it any stronger than it now is? The gentleman has told us, and told us very truly, that MONTESQUIEU and ADAMS, and MADISON, and HAMILTON, and other celebrated writers, have all declared that the powers of Government should be kept separate and distinct. Certainly they have, and it has been an axiom with all writers on the subject. Well, was not all this known to the framers of your Constitution? It must, then, either be that they acted contrary to this maxim, or they did not understand it, and acted counter to a conceded principle in any free Government. If, on the contrary, they intended to affirm this principle, then they either have affirmed it, or neglecting to do so, it has now, at the end of nearly fifty years, been found out for the first time.

We have had a long and learned history of abuses under both the Constitutions of Pennsylvania. As to the abuses under the Constitution of 1776, he did not think it would be much authority here, as they took place at a time when every thing was in an unsettled condition, and when the people of this country were struggling to get rid of the tyranny of a foreign Government, and to establish a form of Government for themselves. He wished, however, to remind gentlemen, that these abuses took place in the administration of the Constitution of the celebrated BENJAMIN FRANKLIN, of whom we have heard so much in this body, and that these abuses rose from a system of distributing the powers of the Government to which he was very much attached, viz: a single branch of the Legislature, instead of two branches, as at present. As to the other instances of which the gentleman from Franklin has spoken, he would merely say, that we ought to know something about them, and should have the opportunity of examining for ourselves, and of knowing exactly what were the circumstances of the cases which induced the Legislature to interfere, before we can make up our minds in relation to them. He now came to the assertion of the gentleman from Allegheny, and the gentleman from Franklin, that the Legislature was particularly subject to corruption. Why, if they are so corrupt, do you expect to make them honest by this provision? If the Legislature is susceptible of being operated upon by party influences, would this proposition make them any better? Cases frequently arise in which it is necessary for the Legislature to assume upon itself powers, which are, in some measure, judicial in their character, and if the Legislature could not exercise this power, where would you put it? The Legislature must be the judge whether it is exercising its own authority or not. If, however, they make a mistake, or assume improper powers designedly, it is an evil. But, sir, the Constitution must be taken as an instrument intended to be honestly executed, and if you expect that one branch of the Government is to interfere with another in an unlawful manner, and that your Legislature is to exercise a tyrannical influence over your Judiciary, and your judges are to bow and

bend to your Legislature, you may as well give up the Government at once. Then, sir, you must expect that it will be honestly executed, and if your Constitution is honestly executed, does any body doubt but that it will be precisely what the gentleman from the county now proposes. In his mind, it would amount precisely to the same thing, and it would give no further guard to the Constitution ; and, if the Legislature was disposed to transcend its authority, we get no safety by changing the Constitution in this particular. We, who have expressed ourselves as having a reverence for the Constitution, have been refered to the Turkish officer who had directed the library to be burned, because it had not the same matter in it which was in the Koran. Now, he should have thought that the case would have been more appropriate, if he had directed that no man should alter the Koran unless he had something better to put in it. They were not for altering the Constitution, until they found something better to insert in it.

Mr. SERGEANT (President) said it appeared to him that the gentleman from Franklin, (Mr. DUNLOP) had rather overstepped the case in some particulars. He confessed, that as he understood the gentleman to read the law of 1824, it alarmed him, and alarmed him excessively, for it appeared to him that that act of Assembly, as stated, was a great deal worse than the one he (Mr. DUNLOP) had cited of ADAMS vs. AUSTIN. It was an act by which certain persons not born in lawful wedlock, were declared legitimate, and made capable of taking certain property by descent ; and as he understood the gentleman to quote the law, it went further, and declared these persons capable of taking the property out of the hands of those who had previously a vested right to it. Such an act would have been outrageous, and an independent judiciary would not have hesitated to pronounce it—proposing as it did, to take property from one individual and give it to another—unconstitutional and void. But so far as the act went merely to establish the legitimacy, no one could doubt that it was constitutional, that it was wise, and that it was humane ; because there were many circumstances under which it would be but reasonable and right, that children should not be visited with the consequences of being born out of wedlock. He would not say that this should be so generally, because as one of the sanctions of the moral law, this penalty was important to be preserved ; but under particular circumstances it might be right to dispense with it. If the act of Assembly went further still and relinquished the right of the Commonwealth to parts of estates, liable to be escheated, that, too, might be right enough. The Legislature had full power, in its discretion, to yield up the public claim in favor of individuals. But if it took property from one and gave it to another, *that* would undoubtedly be wrong. Now he would read from this act of 1824, and would read further than the gentleman from Franklin had, and show him, that instead of containing the provisions he had alluded to, it contained provisions directly the reverse of them, either expressly or by necessary implication :

Here he read the several sections, and showed that in some of them, there was an express proviso saving the rights of others, and in the rest there was what was of equivalent effect.

Has the gentleman from Franklin then done justice to himself or to the Legislature, when he refered to this act of Assembly ? Has he not read the act too hastily, and supposed it an instance of hasty legislation, when

it was only an instance of hasty reading? It was such an act of Assembly as' under this Constitution, he would readily have given his assent to, and he hoped in proper cases every Legislature would do the same. There was another case in this act, in relation to a Mr. MARTIN, with a proviso similar to the above, which he did not deem it necessary to read. Then there were three other sections which did not contain these provisions in form, but which were the same in fact, as the former cases cited. So much for that act. It is quite clear of offence. Now, may it not be inferred that the memory of the learned gentleman from Franklin, might have failed him with regard to the other cases he had referred to? He knew nothing of the particular case of MERCER, but he did know that the Supreme Court of Pennsylvania, an independent tribunal, composed of judges who held their offices during good behaviour, adjudged it to be constitutional. But, he could tell the gentleman another thing, which, when mentioned, no doubt, he would recollect, which was that the very first law we ever had in Pennsylvania with regard to the conveyance of the real estate of married women, was exactly the same as this, and never has been objected to from that day to this. The law he alluded to was that which was passed in 1790. It was the first and the only general law which legalized acknowledgments of deeds by married women, and by that act all deeds previously acknowledged in the way it adopted, were made good. It operated retrospectively, sanctioning and validating a previous usage. No lawyer ever objected to it. It is the settled foundation of titles. The subsequent confirmatory act did precisely the same thing, and no more. It validated a previous usage applying to some particular instances. How can the latter be objectionable, if the former were not? They are both clearly good. He would ask the committee then, whether it would be judicious to introduce a clause into the Constitution intended specifically to prevent the passage of acts to relieve citizens from heavy loss in consequence of errors, as to matter of form? Should there be no power to correct such errors? He presumed no one would say so. The facts in relation to the Lancaster case, as he understood them, were, that a person bought a piece of property, paid his money and got his deed, and that deed was acknowledged in the form practiced upon there, and, he presumed, that under it, the purchaser was in possession of the land. In this state of things, an acute and reaching eye, probably of a lawyer, discovered that the acknowledgment was not in the very words prescribed by the act of Assembly. There was a word or a letter more or less. The consequence aimed to be produced, was, not that the money should be restored to the purchaser, upon giving up the bond; but the original owner was to have the land and keep the money too. The Legislature passed a law curing the formal defect, and the Judges of the Supreme Court decided that there was nothing unconstitutional in the act. He would say a few words more in relation to the case of SATTERLEE and MATTHEWSON. It was a case brought before the Supreme Court of Pennsylvania, and was thence sent back into the Court of Common Pleas, and there underwent a discussion, and was finally carried to the Supreme Court of the United States, where he (Mr. S.) was employed as counsel to endeavor to get rid of the act of Assembly and to reverse the decision of the Supreme Court of Pennsylvania. Connected with him in the case was Judge MALLORY, who took a deep interest in the matter of reversing the judgment. He (Mr. S.)



would state as many of the facts as were necessary to a correct understanding of the case, and then leave it to the Convention to judge. They were these : one man made a lease of land to another : a mere individual matter between man and man. This lease was essential to the title of one of the parties. Now he would leave the parties for a moment and tell the committee what the Legislature had done from motives of public policy. There was a large class of claims of certain citizens of Connecticut to lands in the Commonwealth of Pennsylvania under Connecticut titles. The Commonwealth of Pennsylvania, by the act in question, declared that all claims of the Connecticut men should be void, and prohibited, under penalties, all contracts arising under, and asserting or acknowledging such claims. This act of Assembly which, on the grounds of public policy, invalidated and made void all contracts founded upon Connecticut titles, was set up as a ground of objection to the lease, by one of the parties to it.

The Court of Common Pleas, if my memory serves me, did not allow him to avail himself of the objection, but held the lease to be good. The Supreme Court of Pennsylvania reversed the decision of the Court of Common Pleas, adjudging that the lease was void, as contrary to the act just mentioned and to the policy of the Commonwealth which that act meant to uphold. Certainly the decision was right. The Court could not have decided otherwise. *That* then is the state of the case : so that every gentleman will judge for himself in reference to the merits of the case between the individuals, of *that* ; I will say nothing.

The Legislature were applied to, and what did they do ? They withdrew the application of their own act of Assembly—based on the ground of public policy—so far as it had the effect of making such contracts invalid and against law, and left the contract to stand on its own footing as an obligatory contract between the parties. Such was the legal effect. At the time, it was objected to on the ground of its being contrary to the Constitution of the United States and inconsistent with the Constitution of Pennsylvania. The Supreme Court of the United States held that it was not against the Constitution of the United States, and the case was finally decided upon the ground of the interpretation of the contract between man and man, without either deriving any aid from the Law of the State about Connecticut rights.

These are the facts of the case, at least as far as I recollect them. And, if any gentleman feels a curiosity to know more he will find them given in one of the volumes of Mr. PETERS's Reports. Every gentleman would then be able to judge for himself, whether he would desire so to limit the Legislature that in no future case of the kind, they should act as they have done in the one mentioned. If gentlemen should form that opinion, then a different clause ought to be inserted in the Constitution from the one contained in it : and, he would add, it ought to be much more explicit than the abstraction now proposed, which could answer no purpose but to raise disputes, and furnish a topic of forensic discussion.

Let us go back, now, for a single moment, beyond the present Constitution, and glance at the cases of legislative usurpation supposed to have been committed under that frame of Government. I have never proposed, and certainly never shall propose the Constitution of '76 as a model, although I freely admit it was made at a time when patriotism abounded.



But it was essentially and entirely ill conceived, defective, not calculated to maintain good public principles, nor to secure and preserve private rights. There was but a single branch of Legislature—a multitudinous Executive—and a dependent Judiciary—dependent, because the tenure of the Judges was only for a term of years, and they were removable without cause at the end of the term. The obvious check upon hasty and imperfect legislation, of a second branch, differently constituted, more deliberate, less numerous, with fuller opportunity to examine, was omitted—or, rather, it was excluded, having been yielded, it is said, to a joke. Instead of this, there was introduced that singular anomaly of a Council of Censors, the most ill conceived scheme imaginable. It could afford no aid whatever in deliberation, for it had no power to interfere while a law was in its passage—the very time and the only time when counsel and deliberations could be of use. In this aspect, it was an useless appendage, without value. It had neither a vote nor a veto. But it was worse than useless—its very faculties made it noxious and mischievous. This council was to assemble at stated periods, and its business then (after the mischief, if any, was done) was to review the acts of every department of Government, and express its judgment upon them. Thus, they did not assist in deliberations before the law was passed, but they were to criticise the different branches of the Government, the Legislature included.

The first defect in such a body, one would suppose, would strike every man at once. Their unavoidable tendency would be to find matter of censure. When they came together, if they had nothing to find fault with, they would have nothing to say. In that case, they would be in the very predicament which the delegate from Luzerne (Mr. WOODWARD) has predicted of this Convention as the unavoidable result, if they do not make some changes in the Constitution; if they did not, to use his own language, “make themselves ridiculous before all creation”, they would at least be insignificant. Their business, they would suppose, was to find fault—not to correct, but simply to find fault—as we are told it is ours to make changes. As we *must* make changes, rather than make ourselves “ridiculous before all creation”, so they were to find fault, or make themselves insignificant. Accordingly, they go over the whole doings of this single branch of Legislature—this miserable unchecked contrivance—and show how it has been encroaching upon the judiciary, and how, in other respects disregarding and violating the Constitution. It might have been known, a priori, that such would be the case. *The present Constitution was the remedy, and such it has proved itself.* The Convention of 1790, instead of wasting their time in unprofitable criticism and censure, used the past experience, like wise men, to cure the evils it had discovered. They introduced a Senate, a veto power, a single Executive, and an independent Judiciary, and thus completed a Constitution, which, upon fifty years of trial, has deserved the praise bestowed upon it by Governor WOLF, of “a matchless instrument”. Every right has been secured, and a degree of prosperity attained, without example.

But now, to return to the old Constitution, and the Council of Censors—and here I call the particular attention of the learned gentleman from Franklin, who will perceive, in what I am going to say, that his argument has no basis. I say, then, that the Council of Censors never charged the Constitution with any want of explicitness in its limitations or distributions of

power. They do not say that the Constitution is not plain in its enactment. They say that the Constitution is clear and decisive in its terms. And, they say further, that each and every act done by the Legislature, and specified by them, is a plain violation of the Constitution. Do they not say this? Well, then, it is not that they have given their opinion that any *form of words* would restrain a Legislature, but that no restrictions in terms would be sufficiently respected by a Legislature, thus unchecked, and without balance or control. And, then the argument would be, that whatever provisions you might put into the Constitution, the Legislature so constituted, would walk over them, as the Legislature whose conduct they were reviewing, had done. What, then, becomes of the gentleman's argument in regard to the restraint of moral feeling—the obligation of an oath—that after having written down things plain to every man's eye, this sanction would prevent transgression? Were not the extent and limit of power written upon the Constitution of '76? Yes. Did the Legislature regard them according to the argument? No. But, with regard to these cases, here mentioned, I should like to know something more of them, because I cannot believe it possible that there ever was a Legislature assembled in Pennsylvania, even under the Constitution of 1776, so ignorant—so wanting in a sense of common justice—as to pass an act for the purpose of taking property away from one man, and giving it to another. In the case of "*SATTERLEE vs. MATHEWSON*" we tried to argue, and did argue, that one man had his property taken from him in order to be given to another. But we did not make it out. I do not believe that the Council of Censors made it out, in the case of *ADAM BAKER*. I cannot believe it, without evidence. There have been, no doubt, many errors committed on the part of the Legislature—it is a branch of the Government peculiarly liable to fall into error. The Legislature is a body which immediately represents the people. It is composed of men coming directly from the people, clothed with their authority, and inclined to be impatient of restraint, as well from the nature and source of their authority, as from a conviction that their intentions are right. They are, as it were, the people themselves. They are, in a certain sense, supreme, for they have power over the Executive and the Judges—active power—while the latter have no power over them, except a negative power. There is danger, I acknowledge—more danger from that quarter than any other, or all others combined. But, at the same time, I cannot trust entirely to the very summary and imperfect statements in the report of the Council of Censors. I should like to know more of the facts. Neither am I always satisfied with their views upon their own statements. I find that the Council of Censors made a decision which I would have the learned gentleman from Franklin make intelligible to me.

It is charged against the members of the Legislature that the provender for their horses is charged to the public, and this is deemed a violation of that part of the Constitution which says, in substance, that they shall be paid out of the Treasury.

Now, I do not understand the meaning to be, that the representatives are necessarily themselves to *receive* the money, as money out of the Treasury, but that they are to be *paid out of* the Treasury.

These members, in the allowance for horse feed, were paid out of the Treasury, just as the books we have bought and distributed among our-

selves, are paid for. Suppose we had now a Council of Censors, might they not equally impute to us a violation of the Constitution?

What is it we do? Why, we have a per diem of three dollars, and it is to be drawn out of the Treasury. We vote for Purdon's Digest, or the Daily Chronicle, or the Constitution of the States—and they are to be paid out of the Treasury. If we had brought our horses here, and the Sergeant-at-Arms were authorized by law to find them hay and oats, the expense incurred would be paid out of the Treasury. It may be a violation of the Constitution; but, all I can say is, that I am not able to see how it is so.

In the case stated, I should have been disposed to decide with the Legislature, and to consider the *mode* of compensation as of little moment, if the total were not excessive. It was suited to the times.

But, habits and manners have changed; and the laws of this State have undergone change also. I think there was an ancient law, that no member of the Legislature should eat his bread and cheese on the steps of the House of the Assembly. At the time this prohibition was issued, the members were obliged to take their meals under a tree. At the present time, we are better accommodated, and there is no occasion for such a prohibition—we have convenient public conveyances, and public houses too, and do not want provision or hay and oats for our horses. These things, therefore, would now be unreasonable. But they were right enough at the time.

But, further—these grievances, stated by the Censors, took place under the Constitution of '76; and where was the restraint upon the act of the Legislature, even when they manifestly and egregiously violated the Constitution, as in the alleged case of GEORGE ADAM BAKER—a man, by the by, who I should think was not very likely to submit to wrong—particularly as he was a Conveyancer himself, and reputed a very able and skilful one; who, as the gentleman from Franklin probably knows, bore a high character up to the day of his death. He was as respectable a man as any in Philadelphia. Where, I say, was the restraint under that Constitution? Where was the refuge and protection of the citizen, from wrong done him by the Legislature? Could the Council of Censors give him support or relief? No: They could make known his wrong, but they could not redress it. Could he rely upon the Courts of Justice to maintain his rights for him against the power of the Legislature? The Judiciary was itself feeble, helpless and dependent, by the tenure of office.

Has any such thing happened since '90, under our present Constitution? The gentleman from Franklin is, in my opinion, unjust in regard to the Judiciary, in supposing it would shrink from deciding against an unconstitutional act of Assembly, though he may be right in reference to the member of the Legislature who denounced a menace against any Judge who should declare a law unconstitutional. The Judiciary have been cautious, as they ought to be, undoubtedly, in the exercise of this power—they have laid down a salutary and good rule. Such rules as conscientious men may reasonably adopt. I believe that the Judiciary, as now constituted generally, possesses moral courage as well as integrity. JOHN MARSHALL, whose fame has filled the whole country with veneration for his character, was both wise and brave. He had shouldered his musket in defence of the independence of his country. He was not wanting in

courage, physical or moral, nor in learning, nor in integrity. He possessed all in an eminent degree. If the gentleman from Franklin will consult the decisions of the Supreme Court of the United States, whilst JOHN MARSHALL presided in it, he will find that they pronounced very few laws of Pennsylvania unconstitutional. One act was pronounced unconstitutional in the Circuit Court of the United States, and *that was a law which was passed for the purpose of taking away certain property from the owners of it, to give it to others, for the sake of preserving the public peace.* It went before an independent Judiciary, and they pronounced the law to be null and void, as contrary to the Constitution of Pennsylvania.

Judge WASHINGTON (and no man that ever lived yielded more implicitly to the dictates of his conscience than he did, without fear or favor,) declared that a law must be clearly shown to be in direct conflict with the words of the Constitution before it could be decided to be unconstitutional. So, with regard to the Constitution of Pennsylvania: it is not enough to make general allegations against a law, to cast upon it such censures as you find in the Council of Censors, to make it void; you must bring it into plain contradiction to the Constitution. If it meant, that this caution, and these rules, are themselves the offspring of weakness and the proof of inefficiency, I cannot agree to it. They have been adopted by the best and wisest men, as well in the tribunals of the United States as of the State, upon great deliberation, and as I believe upon the clearest necessity. I have no notion that any Judge can, or ought to go further. The case ought to be a clear one, to warrant his interposition. But when such a case has occurred, has the Judiciary ever been found wanting? Has any individual ever failed to find protection? Constituted as the Judiciary now is, does not every citizen feel an unshaken assurance that he will find protection there? Can any such menaces as have been talked of, disturb this assurance, while he has a Judiciary to resort to, independent by its tenure of good behaviour? Alter the tenure, make the Judge dependent, I admit that this great security for private rights, will be destroyed. Such a change, I hope, will not be made.

The delegate from Allegheny (Mr. ROGERS) has advanced to-day, some sound views and principles in reference to keeping separate the branches of the Government. He is perfectly correct in saying that the powers ought to be distributed, so as to be kept distinct. But, that is not the question we are discussing. There is an actual distribution already existing. The question is, whether, by introducing new and needless words you shall run the risk of a doubt whether certain powers are not extinguished? I put to you a case: The whole community have a power to do certain things, and it is proper and necessary that they should be done. The Constitution distributes its power to three branches; and it has put each of these branches in such a way that some of those things the community could have done, can not be done now by either of the branches, nor by the whole of them together. The consequence follows that there are certain valuable powers which are lost in the creation of your Government. They are lost—for, after the distribution, the community can act no further in the aggregate.

If you want a remedy, in any way, you cannot get it, however essential, from the people, because they have parted with their power—under this

ten Constitution. You ask the Executive—Can you help us? No: I go to the Judiciary, and ask—Can you help us? No: Then you go to the Legislature—there, you must find relief, or you can find it nowhere.

Suppose a case where it is most manifest that the power of the community ought to be exercised, but it is not strictly—and both these branches are and ought to be strictly defined—Judicial or Executive power,—will you consent to extinguish it, or withhold it, from the people? And, if not—which of these departments will you give it to? I wish to hear an answer to this question. This whole Convention (to illustrate the matter) has the power of making amendments to the Constitution. Suppose it should distribute its power among the committees of the House, keeping none to itself as a body, but leaving all to the committees.—*That*, it is true, cannot be done, but it may be supposed for illustration.—Suppose, further, it should be found that a valuable power, belonging to the body, could not be exercised by any of the committees, being properly within their range. Ought it to be lost? Would not be a circumstance to be deplored in regard to this Constitution? The answer would be, it remains in the Convention. So it does. And, so,

residuum remains in the Legislature, unless expressly reserved. I coincide with the gentleman from Allegheny, that the three branches of Government should be kept distinct and independent. What is meant distinct and independent, as regards another question—I mean the Judiciary?—and what we will come to hereafter, when I hope this discussion will not be forgotten. My position, is, that this is the true construction, namely, that all power belonging to the community is given by the Constitution, except such as is specially reserved by the instrument itself. *That* has been the construction from 1790, down to the present time. And, it must necessarily be so. The Constitution does not consist of grants of power, but of the distribution of power. If you wish to limit you do it by a restriction in your bill of rights.

What is to be the effect of a new declaration, such as is now proposed? I am sure the gentleman from Allegheny has studied the subject sufficiently, to go along with me in maintaining, that an actual distribution of power by a Constitution is, and ought to be fully equivalent to any declaration in a Constitution, that they are distributed. Why then introduce novelty? At the best, it is useless. But it may be worse than useless—it may lead to a conclusion that something new is meant, and become the source of litigation and controversy. We have lived under

the Constitution almost half a century. Its construction is settled and understood. In that Constitution there is a distribution of powers, so far as they can be specifically distributed. Your Legislature has been supposed, heretofore, to have the residue—the remedial power—a power never to be exercised on fit occasions, not interfering with other departments. Will you not leave this power some where? If you will not give it with the Legislature, what will you do with it? Where can the remedial power be left, with more propriety than it now is? And why expose it to disturbance, when it is at rest: I agree with the gentleman from Lycoming, (Mr. FLEMING) that the insertion of this proposition in the Constitution will give rise to much disputation and controversy, and be beneficial only for those who are engaged in the profession of the law,



In fact, the whole matter may become unsettled, and fifty years of legislation may be required to restore things to the order in which they now are. But if you really meant to deny the power which belongs to the Legislature, or any part of it, you must do so by a specific and clear enactment. It is true, as has been remarked, that every man should understand the Constitution. He should not have to go to a lawyer to have it explained to him. That must, however, happen in some cases. The language of the Constitution should be clear and intelligible, so that the learned as well as the unlearned may have some tolerable chance of understanding it. Will it be so in the present case? I am afraid not: and hence my decided objection to the provision proposed to be inserted.

Mr. LONG said, Mr. Chairman, I should not have troubled the committee upon the subject now before them, had not the case of *MERCER vs WATSON*, from Lancaster county, been referred to in the course of the present debate. As that case, probably, may have some influence upon the deliberation of the Convention, I consider it my duty to state the facts of that case according to my knowledge. Mr. MERCER and Mr. WATSON were married to two sisters, each possessed of considerable real estate. Mrs. MERCER, in order to vest the fee simple of her estate in her husband, made a transfer of her estate to a third person, so that the same might be conveyed to her husband, which was done accordingly. In the conveyance to this third person, the acknowledgment of Mrs. MERCER was not according to the provision of the act of Assembly, by which married women are enabled to dispose of their real estate. After the death of Mrs. MERCER, Mr. WATSON, in the right of his wife, brought an ejectment, for the purpose of recovering the premises which belonged to Mrs. MERCER in her own right, but which she intended should be vested in her husband. This ejectment was predicated upon the ground, that the acknowledgment was defective, and not according to the form prescribed by the act of Assembly, and that her husband had no legal title to the same. Upon the trial of that case, I understand evidence was offered to prove that Mrs. MERCER expressed the greatest desire that the title to the property should be vested in her husband, for whom she manifested the warmest affection; but this testimony was rejected on the ground that parol testimony could not be received to explain the written acknowledgment. A recovery was accordingly had against MERCER, and WATSON went into possession. After the act of the Legislature passed in 1826, curing these defective acknowledgments, an ejectment was brought against Mr. WATSON's heirs by Mr. MERCER, which proved successful. But, sir, permit me, also, briefly to state the reasons which shall govern my vote upon the present question, against the amendment. The general impression was, that the people desired few amendments to the present Constitution. The desired amendments were plain and few, and to them the public attention had been drawn; but I do not believe that the amendment now proposed was ever thought of by the people; although the present Constitution has been in existence for nearly half a century, yet no complaint, within my recollection, was ever made with regard to that part of the Constitution which is now proposed to be amended, and I can scarcely believe that if that part now under consideration is so defective as some gentlemen apprehend, we would not before now have heard something of it. I admit that the Constitution is susceptible, in certain particulars, of wholesome improvement; but



I do not feel disposed to go for any alteration, unless I am induced to believe such alteration will be for the public good; and wherever I shall believe that an alteration or amendment will be for the benefit of the people, such alteration or amendment shall receive my support; but when the reasons for and against an amendment are equally balanced in my mind, I shall be for adhering to the present Constitution. With regard to the proposed amendment, I am at a loss to discover what effect it might have; it probably might open a door for litigation, and cast us upon an ocean of uncertainty without any guide to direct us. I have not yet been able to discover any injustice which has resulted to the people, from the legislation which has been referred to by the cases cited, and which have taken place since the formation of the present Constitution; it was generally done to subserve the cause of justice. If the powers of each department of Government could be particularly defined, as was observed by the gentleman from Lycoming, I possibly might go for an amendment of that description. But, sir, as the present amendment is not of that description, and as I cannot think that any good would result from its adoption, I shall, therefore cast my vote against it.

Mr. BROWN, of Philadelphia, said that he was not accustomed to make any apologies to any body of men, when he deemed it his duty to address them. At this time, however, he felt it was due that he should make some apology for presuming to address the committee on a subject which seemed only to belong to those learned in the law. He was but an humble individual and was unlearned in the law, and, indeed, he might say, in any meaning of the word; he, therefore, hoped that when any gentleman spoke of him, he would not use the appellation which had grown so common in our debates, of designating him the "*learned*" friend. He wished to submit a few observations on the subject pending before the committee, and he should not detain them long in doing so. Although he claimed to have no acquaintance with the courts of law, or with the science of the law itself, yet he did pretend to know something of the Constitution of this and other States, and what ought to be the action under them.

In coming here, he had not entertained the most remote idea of attempting any reform in the courts of law. He had had but little to do with the courts, and he hoped to have no more. He knew little of their defects or their errors. He had always understood that the great principle incorporated in our Government was, to keep the several powers of the Constitution separate and distinct—the Legislative, the Executive, and the Judiciary, except when they were blended by that Constitution. He had never entertained a belief that the Legislature had ever done a purely judicial act, and was entirely ignorant of the fact until it had been developed here. He knew that the Legislature occasionally divorced a man from his wife, but was not aware that that body had ever usurped power belonging exclusively to the Judiciary. It seemed, however, from the remarks of the gentleman from the city (Mr. SERGEANT) and others, that the Legislature had been encroaching on the powers of the Judiciary. They had strenuously contended that the Judiciary should be perfectly independent. And now, the gentleman (Mr. SERGEANT) who had but a few days since argued how incompetent the Legislature was for deliberate and disinterested action on subjects of a judicial character, expressed his opinion, that it ought to have the power of a judicial tribunal, in cases

where no remedy can be had ! But, what had that gentleman (Mr. SERGEANT) said in regard to this tribunal ? In speaking of impeachments, he remarked, that “ the Legislature was the accuser, inquest, and judge. There were no intermediate steps where there might be a chance when justice might be done—no chance of challenging—no door for escape from bias or interest, which was open to the meanest criminal”. “ The Legislature was a political body, and there was a general community of feeling which operated against the accused”, &c.

Now, he (Mr. B.) would ask, was this the tribunal to which we were to have our rights and property exposed ? which, under all its aspects, had been shown to be incompetent for deliberate and disinterested action on subjects of a judicial character, which might, and had decided causes of vast importance without trial, and when the party injured was in a foreign land. Mr. B. thought the power of making laws interfering with the proceedings of courts, and making that lawful or unlawful, which was not so when it took place—thus making laws looking to the past—if they were not “ *ex post facto*”, were such as must be considered dangerous and contrary to the principles of a well regulated Government. That such had been the action of the Legislature, he would cite one case, to be added to the many already brought before the committee by others. In 1809, an application was made by persons, in Philadelphia, for a divorce. The husband had bequeathed his wife a considerable fortune—went to Europe, and when he returned he found his house deserted, and the solemn matrimonial contract, which he had made under the law, dissolved by the makers of the law.

The gentleman from the city had said, that “ law was liberty”, but he (Mr. B.) thought, that if law was liberty, that law ought to be known—that was doubtful liberty which was held subject to be violated by subsequent laws. Such laws might be good sometimes, but if the power was granted to pass such laws, it might be, as it had been, used to pass bad laws. It was impossible to prevent injustice sometimes—the laws themselves, in their action, were sometimes unequal, if not unjust, and the interference by the Legislature to obviate this would but be partial.

Gentlemen had said that we came here to make no other changes than what the people have called for, and that we are to make no experiment whatsoever. No one denied that. He liked to see gentlemen act up to, and carry out the principles they avowed. The gentleman from Lycoming had observed, that the people were willing that the Constitution should be amended, as they had indicated, but they would approve of no other amendments. But the gentleman had said, in resolution No. 42, that he was in favor of electing a Lieutenant Governor of the Commonwealth. Now, he would put it to the gentleman, whether he had heard such an amendment spoken of by any portion of the people of the State. He, (Mr. B.) had not. A Lieutenant Governor might be necessary, and he, for one, would go for an amendment of that sort, after the other amendments were disposed of, if the gentleman could convince him it was necessary. What did the gentleman from Chester, (Mr. BELL) tell the committee, as to the wants of the people of his district. In resolution No. 4, (he says) that Justices should be appointed by the Governor and Senate, removable by the Superior Court of the County.

Now, he would ask that gentlemen, whether the people of the State

required that the Justices should be removed by the Superior Court? Nevertheless, this gentleman told them he was a reformer. Now, he (Mr. B.) was a reformer also, and he would go for this, provided it could be shown to him that it was necessary or proper. He found that the gentleman from Lancaster (Mr. Long) went for judicious reform. He had said that he would not go for experiments, but only for such amendments, as the people required. What did he say? In resolution No. 46 he says, "that any person convicted of an infamous crime, shall be disqualified from exercising the rights of an elector".

Now, this might be the opinion of the gentleman from Lancaster's constituents—it might be their desire that such an amendment should be introduced into the Constitution; but, he (Mr. B.) had not heard an intimation in the county of Philadelphia, that such an amendment was wanting.

But if that gentleman could show that this amendment ought to be made he would go with him in having it inserted.

The gentleman from Bedford (Mr. CLINE) had said that there were some gentlemen in favor of radical reform, whilst there were others who were for *judicious* reform. Now, he (Mr. B.) supposed that the gentleman from Bedford was one of the latter class.

THE CHAIR would remind the gentleman from the county of Philadelphia, that he was taking a very wide range, and was not confining himself to the subject under debate.

Mr. BROWN resumed.—We are now at the beginning of our work. We have now under consideration the powers of distribution of the Government. It is the very subject we should have acted upon long ago. I trust that we are laying the foundation of these powers where they ought to be. The gentleman from Bedford and his compeers are opposed to any amendments not referred to the people—they are opposed to radical reform, yet these gentlemen have placed on the record the reform they want—or which he (Mr. B.) supposed they want—us to understand as all the reform the people wanted: and what is the reform the gentleman from Bedford thinks the people want? In Resolution No. 22 he says "that the Prothonotaries, Clerks of Courts, Registers and Recorders ought to be appointed by the Courts".

Now, he would ask the gentleman to show him (Mr. B.) when the people ever required such an amendment. Did the Convention assemble merely to give the choice of Registers and Prothonotaries to the respective Courts. Now, was this the kind of reform the gentlemen were inclined to go for? Is this what they call judicious reform? This the reform which the people required? He (Mr. Brown) would protest against such reform as this. The people had asked for bread, and surely gentlemen would not trifle so much with their feelings as to offer them a stone. He hoped that gentlemen would give up some of their predilections—be disposed to concede something, in order that the Convention might come to a general understanding, and make such reforms as were demanded by the people. For one, he confessed, that he was willing to yield up his predilections, to procure harmony and definitive action.

But the gentleman from the city (Mr. HOPKINSON) was against altering the Constitution any where—he was opposed to reform, even when he admitted it was proper, in reference to the tenor of the judiciary. He venerated it for its antiquity, and, therefore, he was indisposed to alter it—no  
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matter what might be the evils existing under it. Don't touch it, said the gentleman, it is well enough as it is. Depend upon it, when the committee came to take up the Executive branch, the same appeal would be made, not to touch it.

Some gentlemen had talked of "party" and "party feeling". Now, he (Mr. B.) had nothing to do with either—should not indulge in it, and hoped that if there had been any party feeling here, it was extinct. The gentleman (Mr. HOPKINSON) speaking of the distribution of power said, that it was already in the Constitution. Why, then, Mr. B. would ask, should he object to having it more clearly defined? In nearly the same language, this provision was to be found in thirteen of the twenty-four Constitutions of the several States—and which were formed since the Constitution of Pennsylvania. But, whether it was contained in those of Michigan and Arkansas, he did not know. The experience, however, of nearly all the other States that had changed their Constitutions, had taught them the necessity of more particularly defining and separating their different departments of the Government. And, he was free to say that but for the experience of other States, he, and others around him, would not be in Convention to-day.

This body was composed of delegates who had seen the operation of forms of Government other than that of Pennsylvania, of other States—both North and South—and it was from this experience, that all true wisdom of Government was to be drawn, and he trusted it would not be found unavailing here.

Mr. B. called on the reformers to endeavor to do something, to look beyond their own notions of reform, and carry out the wishes of the people at large. Sir, (continued Mr. B.) I am not in favor of untried experiments. We have been told that this is an experiment which has not yet been tested. I hold in my hand a book containing the Constitutions of twenty-four States, and I find that thirteen of them contain this provision. I am not prepared to say whether it is embodied in the Constitutions of the two new States, but it is to be found in thirteen out of twenty-four. And why has it been inserted in these Constitutions? Because it was universally conceded that the Legislature ought to be restrained in the exercise of its powers, within a sphere which was limited and defined.—Thirteen of the States have precisely this article in their Constitutions. This is the way we get experience. The wisdom of other States has enabled us to see the operation of the provision in their Constitutions, and sanctioned its introduction into our fundamental code. Some of us have lived in other States, and have been thus able to observe the operations of different systems. I (said Mr. B.) have lived in the South, as well as in the North. And it is by comparison of the practical operations of different Constitutions, that we find out what is beneficial and what is defective. In some of its features, I have never seen a Constitution better than the one we possess; but, because it has in some particulars, worked tolerably well, shall it be said that we ought not now to improve it? He would ask the agriculturist if it had not been formerly the practice to plough with a wooden mould board, and whether the ingenuity of modern times, had not substituted an iron one which was found to be a great improvement. Thus it was, that by discovering what was done elsewhere and by adopting what was valuable in the practice of others, we advance

our own course in the arts and sciences. The learned President had adverted to the great difference between the period when the members of the Legislature were compelled to eat their bread and cheese under the shade of the trees, as the law prohibited them from eating on the steps of the Capitol, and the present advanced stage of thought and action, when by the application of the power of steam, time and distance are subdued; and was it to be expected that in the science of Government improvements may not be achieved? When every thing around us is bursting with improvement, are the principles of Government alone to remain stagnant, and are we still to adhere to what was considered suitable to an age fifty years behind us? What the people could not do in that day, they are now fully competent to perform. We have heard in other times of a republic of a few miles square: but the idea of a collection of republics, under one General Government, was too unexampled for that age. The political advancement of that period, and the experience of the fathers of our republic, did not embrace so expanded a view of the science of Government. Gentlemen ask too much, when they require of us to assent to their opinion that the Constitution is not susceptible of any improvement. He was willing to give the Courts power sufficient for the beneficial exercise of the functions with which they were charged, but he desired them in a position in which they would be subjected to the control and correction of public opinion.

Mr. B. here went into a review of "equity powers" in general, and argued that the Legislature was not a proper tribunal to investigate and determine when they should be exercised. The present Constitution requires the Legislature to grant such powers to the judiciary, but not to exercise them itself. If the high remedial power that was spoken of—a power that could pass retrospective laws, and interfere with the regular operation of the established laws, were necessary, it would be better to select some tribunal other than the Legislature; but what that should be, he was not prepared to say. But, if it must be exercised by the Legislature, he thought some restrictions should be placed upon it; or it should be defined and explained, so that the people might know where and how it existed, and was to be exercised.

The people themselves should exercise all power. He desired to see all power in the people. Let the departments go to the people when they have need of more power, and ask it, and the people will cheerfully give it them. But he was unwilling to grant power on too liberal a scale. He did not think that the Legislature ought to exercise all the powers of the people. He desired to keep his own share of power to himself.

Something had been said, in the debate, of the dangerous character of a Court of Chancery, and it had been contended, that the Legislature was a better tribunal than that for the exercise of a remedial power. From this opinion he dissented. It did not correspond with his own observation of the effects of a Chancery system, in those States where he had had an opportunity of witnessing them. In the State of New Jersey there was a Court of Chancery, and it had always been considered a very useful and proper part of their judiciary system. The people were perfectly well satisfied with it. He had spent much time in the State of Virginia, where there was a Chancery jurisdiction, and he never heard any one



there complain that his rights were invaded by it, or rendered any the less secure. He was utterly opposed to vesting any remedial power in the Legislature. He would never make this Hall the theatre of trials involving personal rights, when we would not even trust the official reputation of a judge here. If a majority of the Legislature could not be trusted with a decision upon the character of a civil or judicial officer, they were equally unfit to give judgment in matters of personal right. This high power, which is interposed between legal right and moral wrong, ought to exist somewhere. Every day's experience shewed us that injustice was done by the laws, if confined to the letter. We have seen men thrown into prison for thirty days, without just cause, by the laws; but, an humble individual, if aggrieved in this way, cannot come here for redress. It was only the wealthy and influential who could seek a remedy from the Legislature. It had been contended, that the Legislature ought to be the depository of the remedial power, because it springs directly from the people—the source of all power. But the Legislature is not the immediate emanation from the people. The Executive was a more direct emanation from the great body of the people. The Legislature was often elected by one third of the number of votes given by the people, and, as had been ably contended here, it represented not only the people, but cities and counties, considered as communities. This argument, then, would give the power to the Governor, but he was opposed to that also, and to the accumulation of discretionary power in any department of the Government. Much of our system of Government was based on the principle, that the representatives of the people would always truly and faithfully represent them; but, in practice, this was not always the case. His friend from Chester, carrying out the idea of the President, says, if the Legislature do any injustice, the people have an easy remedy for it, and the next Legislature elected by them will remedy the wrong. He apprehended, that those who were such strenuous advocates and defenders of vested rights, would hardly give their assent to this doctrine. Take the case of a man, whose wife the Legislature divorced from him, without a hearing. The next year he came to the Legislature seeking redress. He said, “you have dissolved my connection unjustly, invaded my personal relations in an arbitrary manner, and blighted my happiness”. But the Legislature refused; and said, “we can give you no redress. The wrong is done, and we can neither restore your relations, nor heal your feelings”. We are told that the remedial power has always been exercised for good, but it may be used for harm. The power may be exercised for deep, great, and lasting injury. This argument would go to prove that a despotic Government is the best. If power was always exercised for good, then the more power a Government could have, the more good it would do. All checks and restraints might be abandoned, and we might say with Pope,

“For forms of Government let fools contest,  
 “Whate’er is best administered is best”.

But, as the President says, we live under a Government of laws. He submitted, whether the Legislature, in their wildest dreams of the extent of their powers, ever thought that they had the power to open contracts, to legitimize children, to set aside judgments, to arrogate the power of the Deity, by making that to be which is not. What then becomes of the



gh remedial power claimed for the Legislature. He felt anxious to lopt some provision which should prevent the Legislature from attempting the exercise of such powers. Gentlemen deprecated the desire of ea of change. The phrase, "no change", is rung through all their speeches. It had appeared to him, in his intercourse with the people in her States, and he had always been locomotive, passing to and fro, that e changes which time and experience had induced other States to make their Constitutions, had been beneficial. Some of these changes, so r as they were consistent with our institutions, he hoped to see adopted here. If they were adopted, we should hear no more of Conventions hereafter. But, if the people, looking abroad, saw better institutions in her States, they would continue to be dissatisfied with their own, and all for a change. The principles which had been sanctioned, and adopted by enlightened and experienced men in other States, ought not to be rown aside, because we, in our own districts, feel no inconvenience om the defects of our Constitution.

The gentleman from Franklin had said, that he hoped they did not come here pledged to the county of Philadelphia, or trameled by the people of that county. He did not desire that any gentleman should be pledged to that county, but he would say, that the people of that county suffered as much from a bad Government, and enjoyed as much prosperity under a good Government, as any other county in the State, and perhaps more. He knew, when they became excited, they would meet together and pass strong resolutions, but it was only when their rights were infringed upon, and he did not believe there was any people, who were more ardently attached to liberty, than the citizens of that county. He wished to say nothing now which would have a tendency to create any excitement; but e would ask whether, as at the present moment, when the whole of the anking institutions had closed their doors, thrown the working men out of employment, and when you took them a note you were told you could get nothing for it, he would ask if it was in human nature not to become excited, as they did, and endeavor to relieve themselves of such curses. They would be unworthy of their sires of seventy-six, unworthy the name of Americans, and of Pennsylvanians, if they did not raise their voice against tyranny, no matter whether it was exercised over them by the misrule of corporations, or by the unjustness of your laws.

Mr. MERRILL thought a question had here arisen to be debated, which was a preliminary question. It was this, whether we were not in fact saying too dear for our Government altogether, and whether the argument of the gentleman from the county of Philadelphia, that there had been a total destruction of liberty under our present form of Government, did not show us that we ought to have no Government, and that our business here should be to repeal the Constitution, instead of amending it, and give back the Government into the hands of the people. He submitted this as very grave question for the consideration of the committee, whether they ought not to say to the people, that they could not trust those who represented them with the exercise of Government, and send it back into the hands of the people themselves.

Before Mr. M. had concluded, he yielded the floor, and

On motion of Mr. DORAN, the committee then rose, reported progress, and obtained leave to sit again to-morrow, when

The Convention adjourned,

TUESDAY, MAY 30, 1837.

Mr. BELL, of Chester, submitted the following resolution, which was laid on the table :

*Resolved*, That the Secretary of the Commonwealth is requested to furnish to the Convention, a statement showing the number of officers, exclusive of Judicial officers, Prothonotaries, Registers, Recorders, and Clerks, of the several county Courts, appointed by the Governor, setting forth their several titles, term of office, compensation, and the places wherein they exercise their offices.

Mr. STEVENS, of Adams, from the committee to whom was referred the second article of the Constitution, made the following report, which was laid on the table, and ordered to be printed :

The committee to whom was referred the second article of the Constitution, reported the following amendments to it :

SECT. 3. To read as follows : “ The Governor shall hold his office during three years, from the third Tuesday of December next ensuing his election, and shall not be capable of holding it longer than six years, in any term of nine years ”.

SECT. 8. First line to read, “ He shall nominate, and, by and with the advice and consent of the Senate, shall appoint all officers ”, *et cetera*.

Make the ninth section read as follows :

SECT. 9. He may, at all times, require from all except the judicial officers, written information concerning their offices.

Add a new section, to be called section sixteenth, as follows :

SECT. 16. The Prothonotaries, Registers, Recorders of deeds, and Clerks of the several Courts, except Clerks of the Supreme Court, (who shall be appointed by the Court, during pleasure,) shall be elected by the citizens of the respective counties ; and the Legislature shall prescribe the mode of their election, and the number of persons to hold said offices in each county, who shall continue in office for three years, if they so long behave themselves well, and until their successors are duly qualified. Vacancies to be supplied by the Governor until the next annual election.

The fourteenth section shall be so amended as to read as follows :

“ In case of the death or resignation of the Governor, or of his removal from office, the Speaker of the Senate shall exercise the office of Governor ; and in case of the death, resignation, or removal from office of the Speaker of the Senate, the Speaker of the House of Representatives shall exercise the office of Governor, until another Governor shall be duly qualified ; and if the trial of a contested election shall continue longer than until the third Tuesday of December next ensuing the election of Governor, the Governor of the last year, or the Speaker of the Senate, or of the House of Representatives, who may be in the exercise of the executive authority, shall continue therein until the determination of such contested election, and until a Governor shall be duly qualified as aforesaid ”.

Mr. STEVENS, from the minority of the committee to whom was referred the second article of the Constitution, made the following report, which was laid on the table, and ordered to be printed :

The undersigned, a member of the committee on the second article of the Constitution, dissents from the report of the committee, and makes the following minority report :

Add the following new sections :

**SECTION** . The Prothonotaries, Recorders of deeds, Registers of wills, and Clerks of the several Courts (except the Clerks of the Supreme Court, who shall be appointed by the Court during pleasure) shall be elected by the citizens of the respective counties, qualified to vote at the general election, and shall hold their office for three years, if they shall so long behave themselves well, and the Legislature shall provide for the mode of their election, and the number of persons in each county who shall hold said offices. The Governor shall supply any vacancies that shall occur by death, resignation, removal, or otherwise, until such vacancy shall be supplied by the people as herein before provided for.

**SECTION** . The office of Surveyor General shall be abolished, and the duties thereof transferred to the Secretary of the Land office.

**SECTION** . The public improvements of this Commonwealth shall be under the management of a Comptroller of Public Works, who shall be annually appointed by the Governor, and shall receive a compensation of not less than                      dollars per annum.

THADDEUS STEVENS.

Mr. BELL, from the minority of the committee to which was referred the second article of the Constitution, made the following report, which was laid on the table, and ordered to be printed :

The undersigned, a member of the committee to whom was referred the second article in the Constitution, begs leave respectfully to recommend as amendments, the following enumerated alterations and additions, to wit :

The second section of the said article ought to be altered, so as to read :

**SECT. 2.** The Governor, and a Lieutenant Governor, shall be chosen on the second Tuesday in October, by the citizens of the Commonwealth, at the places where they shall respectively vote for representatives. The returns of every election for Governor and Lieutenant Governor, shall be sealed up and transmitted to the Seat of Government, directed to the Speaker of the Senate, who shall open and publish them in the presence of both Houses of the Legislature. The persons respectively having the highest number of votes for Governor, and Lieutenant Governor, shall be elected ; but if two or more shall have an equal, and the highest number of votes for Governor, or for Lieutenant Governor, the two Houses of the Legislature shall, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor, or Lieutenant Governor. Contested elections shall be determined by a committee, to be selected from both Houses of the Legislature, and formed and regulated in such manner as shall be directed by law.

The third section of the said article ought to be amended by inserting the words "and Lieutenant Governor", after the word "Governor", and providing for the continuance in office of the Lieutenant Governor for the same term as is prescribed in the case of the Governor.

The phraseology of the fourth section ought to be so altered as to make

its provisions embrace, as well the office of Lieutenant Governor as that of Governor.

The eighth section ought to be so amended, by striking out the words, "or shall be established by law".

The fourteenth section ought to be altered, so as to read :

**SECT. 14.** In case of the death or resignation of the Governor, or of his removal from office, the powers and duties of the office shall devolve on the Lieutenant Governor, for the residue of the term ; and if the trial of a contested election shall continue longer than the third Tuesday in December next ensuing the election of Governor, the Lieutenant Governor shall exercise the powers, and discharge the duties of the office of Governor, until the determination of such contested election, and until a Governor shall be duly qualified ; but if the election of the Lieutenant Governor shall also be contested, and the trial of such contested election shall continue longer until the said third Tuesday in December, the Governor of the last year, or the Speaker of the Senate, who may be in the exercise of the executive authority, shall continue therein until the determination of such contested election, and until a Governor shall be qualified as aforesaid, or until the contested election of the Lieutenant Governor shall be determined, and such Lieutenant Governor be duly qualified. While acting as Governor, the Lieutenant Governor shall receive the same compensation as is, or may be allowed the Governor.

A new section to be numbered fifteen, ought to be introduced, and to read:

**SECT. 15.** The Lieutenant Governor shall be President of the Senate, but shall have only a casting vote therein. While acting as President of the Senate, he shall receive double the compensation paid to a Senator. If, during a vacancy of the office of Governor, the Lieutenant Governor shall die, resign, or be removed from office, the Speaker of the Senate shall act as Governor until the vacancy shall be filled. While acting as Governor, the Speaker of the Senate shall receive the same compensation as is, or may be allowed the Governor.

THOS. S. BELL.

#### FIRST ARTICLE.

The Convention then resolved itself again into committee of the whole, on the first article, Mr. PORTER, of Northampton in the chair.

The question being on the motion of Mr. INGERSOLL, to amend by substituting the following as the first article :

#### ARTICLE I.—DISTRIBUTION OF POWER.

The respective powers of Government, Legislative, Executive and Judicial, are by this Constitution severally distributed and established in three distinct branches, viz : the Legislative, the Executive and Judicial ; neither of which separate branches shall exercise the authority of either of the others, except where this Constitution authorizes.

Mr. MERRILL, of Union, resumed his remarks. He should not have troubled the committee, (he said) but, believing the effect of the amendment would be felt more extensively and more injuriously than he at first thought, he could not regard it as consistent with the duty he came here

to perform, to withhold the observations he was about to make. Nor could he regard this as an isolated proposition, which might be passed upon alone, but as one which would render it necessary to adopt corresponding changes throughout the whole Constitution. He had, on Saturday, asked if it was intended to form a Constitution of limited and uncontrolled powers, or whether it was desired to frame one adequate to the necessities and wishes of a great people? To that question, he had as yet, received no answer. Are we to put this section into the Constitution as a mere declaration of the powers of the different branches of the Government, and to leave it to each branch to construe its own powers, to claim what it deems important, and to give up what it may be willing to yield? Are we forming a Constitution for a great State, and not for a petty corporation? Are we endeavoring to provide for the wants, and meet the wishes of a great people? In amending this proposition, are we acting on any thing which has assumed a practical shape? It appeared to be the understanding of many, that the line of division between the different branches of the Government was broad and tangible, a separating turnpike. He apprehended there was some mistake in that impression. It would be as easy to detach the hues of the rainbow, and place each color distinctly and separately before the eye. Shall we trust to a mere declaration that the powers of the Government are distributed? We have that declaration now. The Constitution already declares it, and divides the powers amidst the three branches of the Government. Is it not enough? If not, why? Have these powers been abused? Has not this practical declaration of the Constitution been obeyed? If not, can any other mode be suggested, which is likely to command more obedience? The difficulty does not consist in regard to these powers which usually lie on one side of the line, or on the other. As to these, there is no complaint. The great difficulty is in placing those which lie across or near the line. No description will avail which attempts to lessen the powers, by leaving any considerable portion of them uncatalogued. It may be worth inquiry, whether, in our anxiety to obtain perfect symmetry, and uniformity in the instrument, we may not sacrifice something of its strength and solidity. There are many ingenious articles of mechanism calculated to make a beautiful machine, but when you come to put these articles together, as a whole, it will not work. So it is here, that which may look well on paper, exhibiting the most delightful symmetry, may lack that practical adaption of parts which is necessary to give it value; for, after ingenuity of arrangement, skill, and labor have been expended on it, it may still want the power to go. By leaving the Constitution unchanged, in this part, shall we leave any of the wrongs of the citizens without remedy? That is the question. Have we not the means to protect every right, and to guard against every injury? Is it not sufficient, if we leave it to the discretion of the proper branch of the Government to administer the remedy for grievances, or is it required that we create a fourth depository of power for these objects? What is to be done with this debatable ground which lies between the several branches? Shall it belong to any one, or shall it be

thrown out as waste and common? That question has already been asked by gentlemen, and no answer has been given to it. If there are no remedies for wrongs, if there is no protection for right, what are we to do? Shall we appoint a supervisory power to keep the Legislature within its proper sphere of action? It was a wise question which some one asked, "Who shall watch the sentinel?" So, who shall guard the rights of the people against this great power? Can there be any better depository of powers found than the Legislature? He had heard of none better. There must be a great receptacle of authority for the protection of the people's rights, somewhere, and no place had been found that was so safe and suitable as the representatives of the people themselves. Some gentlemen had referred to particular cases, and said there were grounds of complaint; and that an impression had existed that there had been unjust legislation. But precisely the same complaint had been made against the Judiciary, and just the same against the Executive. Already we have heard that pardons have been too frequently, or improperly granted by the Executive. Already we have been told of cases which have been unfairly decided by the Judiciary. If it is thus decided that all Government is wrong, that there are none of the delegated powers which have not been abused, we can establish no beneficial regulations whatever, because the evil of government overbalances the good.

A great many cases of complaint had been brought forward, where it was said that the Legislature had improperly interposed with individual rights. It might be that, in some instances, the Legislature had been misinformed, and passed improper laws. This was not the question. We must submit to some imperfection in all the operations of our Government. The question was, what disposition shall be made of certain powers indispensable to free institutions, which are not distinctly referable to any one of the great branches of Government? To illustrate the kind of power and the necessity of its existence, he would refer to one case within his own knowledge. A citizen of Lancaster county owned a tract of land in what is now Union county. It was overlooked, till it had descended to the third and, perhaps in part, to the fourth generation. Possession was taken without right, and when the ejectment was commenced, there were about forty claimants to be made plaintiffs. At the trial, owing to some informality, or want of evidence of the due formality in taking a deposition, the pedigree of one branch of the plaintiffs could not be proved to the jury—the counsel agreed to give up their claim to that share; but the other side insisted that by some technical rule of law, arising from a joint demise under the English law, all the plaintiffs were barred of their action, and those who had proved their right, could not recover. The Legislature corrected this gross injustice. Were they right? And ought there not to be a power somewhere to do it? The judiciary could not do it, for they merely expound the law as it exists. It required the interference of the law-making power; and why should it be refused? Why should a form of action borrowed from England, and in its forms a fiction there, be allowed to produce injustice here?



Again, we sometimes suffer from the neglect or ignorance of the public officers. One instance was in this way. The deputy of a Prothonotary administered the oath of office to a Justice of the Peace. There was no suspicion that any thing was wrong; and the Justice proceeded in the execution of official duties, to give judgments, take the acknowledgments of deeds, and to perform other acts of great moment to the public at large—at length some litigious fellow discovers the error, that the Justice was not duly qualified, not having been sworn into office by the special commissioner in person, and seeks to avoid some of his acts. This would naturally throw the citizens of a whole county, particularly those whose titles to land might be affected by the question into confusion and doubt—a doubt of a land title may often reduce the actual cost value one half. The Legislature, without inquiring what would be the legal effect of such a transaction, pass a law curing the defect—and who will say they were wrong? Ought the power to remedy such evils to exist? What are our laws or institutions worth, if we cannot secure a due, and proper, and just administration of the laws. If this great remedial power ought to exist, where can it be so safely lodged as with the representatives of the people?

It might be heresy, he did not know. for it was difficult now to tell what was orthodox: but he was of the opinion that when a Government is founded on the assumption that the power is left with all, it must be executed under a strong and unavoidable responsibility. It had been said the Legislature abused its power. It might be so. He would not stand forward to justify every act of injustice. Gentlemen were too apt when they felt a wrong, to argue warmly, and their excited feeling frequently carried them to false conclusions. It had been alleged that the Legislature had legislated money out of one man's pocket into that of another.

This was at first blush, surely a most startling allegation. But how had it happened? The real estate of a married woman had been sold by the husband and wife for a valuable and full consideration, and all the forms of law had been complied with, as far as the parties were concerned; but the Justice of the Peace neglected, in his certificate, to give the proof of all he had done. After all parties were dead, and all the money spent, the children of that woman thought it would be quite convenient to get the property back. But as they had nothing, and would have nothing without a recovery; and as the lawyer must make the case for them, a large portion of the proceeds must come to him, contingent, however upon success. The Legislature provide that the fact of the woman's transfer of her interest, may be proved in some other way; and by this act of justice the lawyer loses his contingent fee; and this is now described as a most alarming invasion of individual rights, as legislating one man's money into another man's pockets. The law provides officers, and why should not the law provide against their wickedness or stupidity? Is this the subject of complaint here? Must we have no officers? or must we be bound conclusively, by all their acts, right or wrong, honest or fraudulent? Is there to be, and ought there to be no middle way, by which the public may profit by their good acts, and be relieved from the injury of their bad ones?

But if the power exists, we do not sit here to inquire into the particulars of its exercise.

The gentleman from Franklin (Mr. DUNLOP) had yesterday read a long list of dreadful cases: and what was it? It was a report of the minority of the Council of Censors, who thought the Legislature not so bad. Other cases had been referred to. The proceedings of courts of justice had been brought up. Are we met here to try cases over again? Do we know the facts? Do we know the parties? Can we form a correct opinion of these cases? No. Are we prepared to try them? No. Because power may be sometimes abused, are we to say all power should be withdrawn, and that no confidence should be reposed in any one? Impossible. Suppose the Legislature to have gone beyond its authority? Suppose all these different branches have exceeded their powers? and the Convention is called on for a remedy. Can it cure that which has been? Let us define and put down the precise powers of the different branches. Let us distribute them, and say one branch shall not interfere with another. But we shall come back to the point from which we started, if we do not give a precise definition and description of the powers to be exercised by each, and they will be just as much confounded as they are now. But it is said that other Constitutions have a provision of this kind, and are not the worse for it. 'There is not one which has it as ours' is drawn. Not one. Eleven of the twenty-four States, that distribute the powers of Government in this manner, forbid either branch to exercise duties properly belonging to, or attached, or exclusively attached to others. There is some qualification in the language, properly defining such powers as are clearly beyond the debateable line, so as to prevent the judiciary from going beyond the legislative line, the Legislature from going over the judiciary line, and the Executive from going into the boundaries of either. If we attempt to draw a definite line between all the powers, and all the shades of powers, we shall make a constitutional question of every law suit, to determine whether or not this line may have been transcended. Gentlemen asked the Constitution to be so drafted that there shall be found in it nothing like ambiguity, that every thing may be plain and definite. Was there ever such a thing known, as even an instrument of five lines which was entirely free from ambiguity? It was not consistent with the course and condition of things in the world that such could be the case. Believing that the evil has been greatly exaggerated, and that if it really existed, the proposition of the gentleman from Philadelphia did not provide a remedy, he would vote against the amendment. And here he would stop, were it not that he had heard some gentlemen, in speaking of the Constitution, indulge in a strain of levity and contempt, in reference to that instrument, as if it was the work of ignorant or corrupt men. Some had spoken of it as too mean for their comprehensive wisdom to respect. These gentlemen know too much, and cannot appreciate the honesty and patriotism and talents of those who have gone before them. It has been treated as an instrument adapted only to the intelligence of a semi-barbarous age, and this is urged as a strong reason for changing it so as to make

it suitable to the advanced growth of human intellect, and the science of Government. And, he would ask, are we sent here to destroy the Constitution, for no other reason than this? Are we to tear it in pieces, in order to put it together again after some new fashion of our own, because we imagine we can give it a more symmetrical appearance? He thought that we had been only sent here to make amendments, but not to destroy the great body of the work which had been found good; and which deserves to be treated with respect. But it seemed that this was not the case. It was said that more liberal Constitutions existed elsewhere. Where? Into what State of the Union did a man migrate from this Commonwealth, and not wish to come back to Pennsylvania? One gentleman from Philadelphia county (Mr. BROWN) had said, that justice was done in New Jersey, and, no doubt, the gentleman was substantially correct in his statement. But, is not justice also done in Pennsylvania, as well as it is in New Jersey? Have we not always believed that the institutions of free Pennsylvania were entitled to our love and admiration, and has it now come to this—that it is beyond our power to find any merit in them? It may be, that in some parts of the Constitution, it may be susceptible of amendment; but, in all the material features, affecting the most important interests of the citizens, he knew of none which had ever worked better. Some gentlemen spoke of the expediency of creating a Chancellor. Do they know how a Chancellor enforces obedience to his decrees? He takes the victim by the nape of the neck and brings him into court, and throws him into prison. In England, a man had lingered for years in prison, because he refused to sign a deed. In France it was bad enough, after a trial, to thrust an individual into the Bastille; but, in England, the Chancellor could shut up his victims from the light of day, and the enjoyment of liberty at his own will. Disobedience to a decree in chancery, is a contempt of that court, and for that contempt imprisonment is the punishment. It is not merely a punishment, it is used as a means of coercing obedience; and there is no discharge till the order shall be obeyed; and we are asked here to give Chancery powers. He would never consent to put such extraordinary powers in the hands of any one man, be he Chancellor, or whom he may. If gentlemen were well acquainted with the mode of enforcing Chancery decisions, they would not wish to have it introduced here.

But suppose that an evil exists, and that this proposition is calculated to afford, in some measure, a remedy for that evil. Can gentlemen make this so apparent to the public mind, that there can be no danger of our whole work being nullified? The amendments we may make in the Constitution are all to be submitted to the people themselves, by them to be approved or rejected, and if we insert in this instrument provisions which they may not approve, the result will be the loss both of our labor and theirs. Would it not, therefore, be advisable to let this amendment pass by. It is a good rule which prescribes that a valuable thing ought not to be destroyed for the purpose of making an experiment. This had been held good from the infancy of science: it had always been conceded that experiments ought to be made on vile bodies. He would ask the gentleman from Philadelphia county (Mr. BROWN) to go into the anatomical

theatre, and accompany the dissector, and learn the course of his operations, and he would find that they were generally made on the condemned, the debased and the despised. He (Mr. M.) was not willing to touch the Constitution with a rash hand. He did not desire to submit it to any of the gentleman's experiments. If we could make any alterations the beneficial effect of which could not be mistaken, let us do it; but let us make no changes of doubtful character. Much more, he knew, might be said, and numerous other facts and cases stated, when we heard of the wanton exercise of power; but enough had been said until it could be shewn, beyond question or doubt, that power should be vested somewhere else than in the Legislature? Why do we complain of the Legislature on these points, while we entrust them with such loftier powers? Have they not power to tax us indefinitely, and to hang us *ad libitum*, to make any laws they please, and enforce any punishment they assign? And do we lie down the less happily, and sleep the less securely, while they possess these powers? Yet gentlemen tell us we expose ourselves to great danger if we leave power in the hands of the Legislature, without a precise definition. It is supposed that the little lapses of the officer expose our liberties and our interests to great danger, while the higher powers vested in the Legislature are not to be touched—while they are to remain without limitation, we are to be alarmed by the cry that our dearest rights are liable to destruction from want of a precise definition of powers. We lie down to rest at the close of day without apprehension, and rise with the morning happy in the consciousness of our freedom, discovering no evil, and fearing no danger, and if this state of things required a remedy, then the proposition of the gentleman from Philadelphia might be substituted for the existing provision of the Constitution.

Mr. REIGART, of Lancaster rose and said: Mr. Chairman—if this was a legislative body, assembled for legislative purposes, and if the subject before us were a legislative enactment which depended on a question of expediency, we might venture to experiment, because if the experiment failed after a trial of a year or two, our successors might repeal the enactment, and harmony and order would be restored. But, sir, we have assembled for no such purpose: to us is committed the fundamental law of a great and mighty Commonwealth; to our hands is committed the entire Constitution of this enlightened people; the legislative, executive, and judicial powers of this people, are entrusted to our care: we have been entrusted with the high power of revising and amending this charter of the liberties of nearly two millions of people and, I therefore trust, we are all duly impressed with the solemnity and responsibility of our situation. We are now called on to add a new article to the Constitution on the subject of the legislative power, and it is given to us under the captivating title of the “Distribution of Power”. On this subject, I apprehend, we shall all agree—all seem anxious to keep these three great powers separate and distinct. We are not wiser than our ancestors; they have kept these powers separate and distinct—each revolve in their separate spheres, and are uncontrolled by each other, except so far only that the legislative power, aided by the executive, possess the law-making power. These two branches being immediate and direct emanations from the people, and possessing this power, must necessarily, in some degree, control the judi-

ciary. But, sir, this is not the entire article proposed to be substituted—the words are, “neither of which separate branch shall exercise the authority of either of the others, except where this Constitution directs”. This, sir, as it has been explained and admitted in the argument, is intended to control the legislative power in what gentlemen are pleased to call judicial legislation. What is judicial legislation? As I understand it, it means that kind of legislation (if there can be such legislation) as belongs exclusively to the courts of justice—the power of trying causes, recording verdicts, pronouncing and entering judgments, awarding executions, and in fact, carrying into effect all its orders, judgments and decrees. But, sir, what cases have been relied on and cited by gentlemen here, for the purpose of sustaining this charge made against the legislative power, of judicial legislation, as they are pleased to call it? The first case relied on by the gentleman from Franklin (Mr. DUNLOP) to sustain this charge, is the act of 1826, relative to curing the defective acknowledgment of deeds by married women. Permit me now, if you please, to consider this matter. This mischief was widely spread. More than millions in value, of real estate in this Commonwealth, was held by deeds defectively acknowledged, for which the full value had been paid, and the parties perfectly satisfied with the *bona fide* execution of the contract. There being then a vast amount of real estate thus held, the titles under the act of 1770 were notoriously defective. The Legislature, being thus aware of the mischief, applied a remedy, and by the enactment of the law of 1826, cured these defects; and this act has been called judicial legislation! Certainly, it can require no argument to prove that this is a remedial law, and such only, nothing more; and does not, in any degree, whatever, partake of judicial legislation. Divorces granted by the Legislature, have also been cited and relied on. The gentlemen who have cited these cases have forgotten, or seem to have forgotten, that the Legislature have never passed any divorce acts without being well assured that the court did not possess the power of divorcing, as conferred on those tribunals by the acts of Assembly. The law having failed to provide an adequate remedy the parties were remediless, unless the Legislature interfered. Are such laws judicial? Are they not entirely and purely remedial? As to the policy of granting those divorces, I say nothing. Cases of the kind are often particularly circumstanced, and as every case depends on its own circumstances, who of us are disposed to blame the Legislature for doing what they may conceive to be right? We might, it is true, not always agree with them; but that is no argument, nor does it follow that we should be right and they wrong. But the great NICHOLSON case has been cited by the gentleman from Philadelphia, (Mr. INGERSOLL) as a case of judicial legislation. I have listened very attentively, as I always do, to the argument of that learned gentleman, and have not been able to discover any thing like judicial legislation with respect to that case. The Legislature did not change the law—they only provided a remedy, so that the law seems to have been remedial. What was that case? JOHN NICHOLSON was a public defaulter, for an immense amount. He had used the public money to purchase lands, which were located, surveyed, and returned. There was no dispute about the indebtedness—he having himself confessed a judgment to the Commonwealth of Pennsylvania for the amount due. The Commonwealth’s agents seized these lands, and in some instances



committee should believe this legislative power is too great, and that it should be restrained, this, I apprehend, is not the proper place to provide against the abuse of that power. Let it be reserved to the people in the Bill of Rights; we can then, if we please, introduce something certain, fixed, and specific, incapable of misconstruction or evasion; but until I am convinced that this (as it seems) superabundance of power cannot safely be trusted with the legislative branch, I shall strenuously oppose its introduction there or elsewhere. Nothing has yet been said that has convinced me on that subject. My mind, it is true, is open to conviction, and all arguments will be respectfully attended to, and have their due weight in the consideration of the subject. But, sir, what is the object after this amendment shall have passed the committee, if it can pass at all? It will then be followed up by attempting to turn the Legislature into a kind of high court of errors and appeals, to affirm or reverse judicial decisions. The second article appended to resolution No. 38 clearly contemplates this; so that the very matter complained of by the gentleman himself, (Mr. INGERSOLL) is attempted to be introduced into that branch of the Government.

[Here Mr. R. was called to order by the Chair, and told that the second article was not before the committee].

Mr. REIGART resumed. I am aware, sir, that the second article is not now under consideration; but, sir, it is almost impossible to show that the first article should not be introduced as an amendment, without speaking of the second article—although detached, they are but parts of a general whole; and it is almost impossible to discuss the one without including the other. The Senate, House of Representatives, and Governor, are the law-making power, says the second article, and are to possess and use it not inconsistent with the Constitution, and the inherent limitation of the annual trust, the sovereignty of the people, &c.

Nor, sir, before we should know what all these words mean, they must be judicially construed. Politicians might suppose, that the sovereignty of the people meant instructions from demagogues at ward meetings.

[Here the Chair again called Mr. R. to order, and said the second article could not be discussed, as it was not before the committee].

Mr. R. said that he begged the pardon of the Chair for having transgressed the rules of order; but he hoped when the second article came before the committee, (if it ever did come there) he should then be in order to explain some of the fallacies which it contained, and the heterodoxies with which it abounded.

Mr. MARTIN said that he had listened attentively to the arguments of the gentlemen on both sides of the question, and could not see the propriety or advantage which would be gained by the adoption of the amendment. Having taken this view of the subject, he should, therefore, feel himself bound to vote against the amendment. Before he did so, however, he desired to give his reasons to the committee, and was, at the same time, anxious that his constituents should learn exactly the course he was pursuing. The county which he had the honor in part to represent, were decidedly in favor of judicious reform. Such alterations and amendments of the Constitution as would make it unexceptionable, was all he conceived, that he had a right to vote for. He intended to go thus far but no farther. From the remarks which had fallen from gentlemen in favor of the



amendment, the conclusion might be drawn, that circumstances had arisen which went to show that an evil existed, and that something should be done to arrest it. If that were the case, probably the amendment would have the effect of curing the evil—of preventing the Legislature from exercising the power any longer, which was now complained of. He felt convinced that the remarks which his colleague (Mr. BROWN) had made in reference to the case of MARK ANTONY FRENAYE and wife, were altogether founded in error. He was certain that the gentleman had not taken the trouble to make himself acquainted with the circumstances and particulars of the case, or he would not have made the statement he did. In the session of 1828–9, Mrs. FRENAYE applied to the Legislature for a divorce, and they accordingly entered into a consideration of the subject, after having been furnished with documents substantiating her complaints. And the result of which consideration was, that they granted her a divorce. His colleague had stated that her husband—MARK ANTONY FRENAYE—had left the State of Pennsylvania, and gone to France with the knowledge and consent of his wife, intending to return to her. Now, the fact was, that FRENAYE departed from the city of Philadelphia for France, he having first parted with his wife for ever, as he told her on his giving her the eighteen thousand dollars presented to him by his spouse's father. He also wrote and signed a document, which he gave her, stating that he had done with her for ever—that he should never come back again—and that she was at liberty to do in future whatsoever she chose. At the time VIRGINIA married FRENAYE, she was only — of age. He was then a clerk in her father's employ, whose money he came into. PETER VAN D—by his commercial transactions realized an independent fortune, and he thought proper to leave her \$18,000. Now, his (Mr. MARTIN's) colleague had stated, that when MARK ANTONY FRENAYE returned to this country, and discovered what was the state of his affairs, he immediately went to the Legislature to seek redress, and they answered that they could do nothing for him. This was the language of the gentleman. He certainly had not examined the subject, or he would not have made so unfair a statement. The fact was, that when FRENAYE returned and applied to the Legislature, they made a careful examination into all the circumstances of the case. The committee, of which he (Mr. M.) was one, investigated the matter thoroughly, as did also the committee appointed on the part of the Senate, and they reported that it was inexpedient for the Legislature to interfere. The committee found this remark at the bottom of one of the documents which they examined: that he wanted nothing to do with VIRGINIA—that he was not dissatisfied with her, but that he did not want to live with her again. His sole object in resisting the divorce, which was granted the year before, was to prevent her from marrying again.

Now, this was precisely the case which his (Mr. MARTIN's) colleague from the county of Philadelphia had represented as one of the reasons why the Legislature should be prevented from interfering in like instances of appeal. He (Mr. M.) believed, that the circumstances in relation to this case were so clear and simple, that the Legislature in deciding as they did, acted judiciously and wisely. Why, then, should the committee adopt the amendment? Allowing the amendment to be adopted, he would ask, would that alter the power of the Legislature, and place it below the Ju-

diciary, or the Executive? If it did not, what reason could be assigned for the adoption of the amendment? And, if it did, what was to be gained by it? His colleague had made another great mistake, in stating that the Executive exercised a sort of control over the Legislature. The Legislature is the nearest branch of the Government to the people themselves. It comes directly from the ranks of the people, and there, he hoped, that the power would be kept. He was of opinion, that more power should be given to one of the three branches of the Government, and that was the Legislature. If they, then, had erred, which he did not believe, why, an error of that kind was more easily corrected, than if made by either of the other branches of the Government. If the Legislature were to pass an act of the character which his colleague had intimated—taking from a man his wife and property, without any good and sufficient reason—most certainly those members who voted for it, would not be returned again by the people.

He (Mr. MARTIN) voted for the divorce of VIRGINIA FRENAYE, and the people returned him the next year to the Legislature, when he voted, also, against any interposition in the case. The people, in both instances, did not disapprove of his votes. It was true, that the gentleman from Franklin (Mr. DUNLOP) had cited a very strong case; at any rate, it appeared so to him, (Mr. M.) who understood but very little of law. He thought, that the gentleman from Philadelphia county had admitted, in relation to his prophecy, that it would alter the whole tenor of the subject. It was highly probable that in most of the cases, where charges were made against the Legislature, of outstripping their powers, if the facts were investigated, they would be found to be something like those in reference to MARK ANTONY.

Now, as regarded reform, and the amendments which were to be made to the Constitution by this Convention, he believed, that he was as well aware of what his constituents required, as any man on that floor. He had resided more than forty years in the county of Philadelphia, and he had never seen any reason why his constituents should be called radicals, as they were sometimes accused of being. It was true, that there was a class of the citizens of the county of Philadelphia, whose sentiments were extravagant, who carry their measures too far, and who would stamp on the divisions of the party they are not in favor of. But, however, they are in a minority, far and wide, and are likely to remain so, for the other division of the political party are a cool, reflecting, reasonable set of men. They are men principally, who have acquired what they have got, by the sweat of their brow—by untiring industry and perseverance. They are that sort of men who have, in all ages of the world, known precisely how to value property. There was not, therefore, any danger to be apprehended from that class of men. The little property they possessed was of as much consequence to them, as hundreds of thousands were to those who owned such great wealth. His constituents wanted nothing more than was reasonable and right. He was willing, then, to vote for amendments, in which deliberate discussion and examination were shown to be absolutely beneficial and necessary, as he had no doubt they would, for there certainly was no lack of talent and ability here. He candidly confessed, that he did not regret the time which had been spent in discussing the propositions for amendments. He, however, thought, that no good

purpose would be effected by the adoption of the proposed amendment, and therefore, he would vote against it.

Mr. STEVENS, of Adams, moved to amend the amendment by striking therefrom, in the fourth line, the word "of", and inserting in lieu thereof the words "belonging exclusively to"; and to add to the end thereof, the words "but neither of the said branches, nor all of them combined, shall have power to establish any bank or banks within this Commonwealth".

Mr. STEVENS, of Adams, said that he had no desire to discuss the question. It was unnecessary to do so, as the amendment spoke for itself. He was in hopes that the gentleman from Philadelphia county (Mr. INGERSOLL) would have adopted it as a modification of his motion.

Mr. EARLE, of Philadelphia, asked for the yeas and nays. He regarded the question of the highest importance, and therefore, he should vote for the amendment, for he was opposed to the chartering of any bank whatsoever.

Mr. STERIGERE rose to move an amendment to the amendment.

The CHAIR said that it would not be in order.

Mr. STERIGERE would appeal from the decision of the Chair. The Chair must consider that the committee of the whole had not then, before them an amendment to an article of the Constitution: but an article, as amended, and the gentleman from Adams proposed to amend the article as amended. Mr. S. then withdrew his appeal.

Mr. STEVENS said that he had supposed that unless there had been some objections made to the amendment, he should have found it unnecessary to have given his reasons, for he thought that all would be in favor of it. However, from the indications he now perceived, he was inclined to doubt it. He would, therefore, very briefly state his reasons why he offered the amendment, and should like to hear what the objections of gentlemen were to it. First, he wished for the insertion of the words "belonging exclusively to" in order to carry out what he believed to be the desire of the gentleman who offered the amendment, viz: to prevent the exercise of a concurrent jurisdiction by the several branches, or any two of them. Now, the amendment, which he had offered would produce that effect; and, if it were not adopted, he could not vote for that of the gentleman from the county of Philadelphia, because there would then be some cases unprovided for by the Constitution, as had been well stated by some gentleman who preceded him; and therefore it was not necessary that he should say much in reference to them. There were many mixed cases, as he (the Chairman) and every well-read lawyer knew, partaking both of a judicial and legislative character, which were to be provided for, and which, without the modification he (Mr. S.) proposed, would remain without a remedy, and it would be impossible for the Government ever to reach them. The executive and judicial powers are well understood. There was no danger of either encroaching on the legislative power. The judiciary are the judges of the law, and they are to decide and construe the laws, and the executive is to execute them. But, there were cases the Legislature only could reach, and which he thought it had already been shown it would be the extent of iniquity not to provide for. Suppose a case, not provided for by the Constitution, or laws should arise—a solemn contract entered into between two parties—valid and binding, in a moral point of view—and which had been broken by one

party—shall the other party go without a remedy? or shall the Legislature come to his relief, and point out a mode by which he may obtain redress for the injury done him? Was not the case referred to by the gentleman from Franklin, the very case which any honest man in the community would wish to have changed? The law provides that a married woman shall not only acknowledge a deed, which parts with her right of dower, after separate examination, and having the deed read to her, but all these facts must be put on the record. Notwithstanding these facts existed, yet, if they did not appear on the record itself, and even though a man should have paid thousands of dollars for a property, he would lose it, unless the Legislature should interfere and substitute another rule of evidence. The gentleman of Franklin had talked of making clients liable for the blunders of their lawyers—that they deserved to lose by them, and that they ought not to be corrected. Now, this might be a very good doctrine for able lawyers, but it was a poor doctrine for a poor client. Suppose that a poor man be admitted to the bar and having fought his way into practice, should, through ignorance give his client wrong advice. Well, was the client, he (Mr. STEVENS) inquired, in consequence of the ignorance of his lawyer—though honest and unable to compensate him—to lose his land, without having an opportunity given him of applying to a remedial power? No, he should not. But, this sort of business was not generally done by lawyers: it was done by Magistrates—by Justices of the Peace, or by persons deputed by them. If ever there was a case in which the interference of the Legislature with the functions of the judiciary was correct, it was the case from the county of Fayette, passed upon at the last session of the Legislature. A Doctor—gave a gentleman his judgment bond for the amount of \$800, and by the time the judgment was entered up and execution taken out, the obligee had obtained from the obligor his receipt, regularly attested by a witness. The Doctor brought forward the witness to prove the hand-writing of the plaintiff, and he at the same time, offered to deposit the amount claimed, in the hands of the Court, to await the final issue of the trial. The plaintiff said, it was a forgery, and he brought seven or eight witnesses to corroborate his assertion. The defendant proved the receipt to be in the hand-writing of the plaintiff, and Judge BAIRD decided that it was a question for the jury—whether the money ought to be deposited till a decision was had. It was proved by honest and respectable witnesses, living in his neighborhood, that the defendant was a worthy man. The two Associate Judges, on the contrary declared that he was a drunkard, and they overruled the decision of Judge BAIRD—thus virtually taking away from the defendant what the Constitution of Pennsylvania contemplates the right of bail. The defendant was, therefore, deprived of an opportunity of setting up a defence, and he could obtain no relief, except by an application to the Legislature. He was induced to take that course. And, what did the Legislature do? They did not adjudicate: they merely carried into operation what the Constitution and the law contemplates.—They said that, on a trial, arising upon the execution of a bond, the judgment should be open, and the defendant had a right to enter upon his defence, and produce the record of the plaintiff.

And where, he would ask, was the honest man who would say that this was not right? There might be something sacred in the character of

a judgment; but was it not indispensable that justice should be done? Was it not to secure to every man a fair and impartial trial before his peers, that trial by jury was instituted? And, what better course, then, could have been adopted than to refer the matter? Was there any other way on earth to reach it, except by this mode? The gentleman from Franklin, however, would strip a man of his land, because judicial authority had been exercised, and would not grant a trial by jury. He (Mr. S.) knew very well that all the writers which had been referred to by the learned gentleman from the county of Philadelphia, and MONTESQUIEU, in particular, who was the text book on that subject, contended that power should not be all concentrated in one department, or person.

Mr. Chairman, we know that MONTESQUIEU and all the writers say that all the three powers cannot, without an abuse of Government, be combined in one person, nor made concurrent between any two branches: and a division of powers, as applied to our Federal and State Governments, means nothing more than that the three powers, shall not be united in one branch of the Government, nor made concurrent between any two. We have separated them as far as human science will enable us to do it; but where the judicial and legislative powers become blended, as they must be from the imperfection of language and of political science, and the impossibility of presuming all the cases in human affairs that may arise, we must leave it to the Legislature to provide for the exigency. Where else can we leave it? Is not the Legislature the depository of the residuum of power removed to the people? We delegate no authority to our Government; all which is not granted is retained by the representatives of the people. The gentleman shakes his head. [Mr. INGERSOLL. By the people.] True, but the people cannot speak by themselves as in an un-mixed democracy. They must speak through their representatives, who are annually elected by them and are responsible directly to them. They send their representatives, clothed with all the authority which comports with a free Government, to act for them. That is the theory of our Constitution.

But I am upon ground (said Mr. S.) which has been trodden long enough. I come now to the second amendment upon which I shall speak very briefly. If this amendment succeed, I shall then go for the whole proposition. The amendment restricts the Government, or any part of it from chartering any more banks. Here on the threshold of the Constitution, I ask you to set up a barrier for the protection of the country, from evils which have been found almost insupportable. What are these evils? Paper currency, and local banking. The banks sit like an incubus upon all the States of the Union, and, until we throw them off, we can never flourish. I believe that the Constitution withholds from the States the power to create banking corporations or, in any other way, to authorise the issue of bills of credit; but, as I admit, long usage and acquiescence, and the decisions of judicial tribunals had sanctioned the exercise of this authority by the States, until the local banks have become so deeply rooted in our system, that they can never be eradicated, without a radical change in the State and Federal Constitutions. But, as we are about remodelling our system, let us begin, *de novo*, and remove this great evil. So long as the power of erecting banks, and authorising paper issues at pleasure, is held by the twenty-six States of the Union, so long shall we



be exposed to sudden and calamitous fluctuations of the currency: but if we restored the exercise of the power to the National Government, where it properly belonged, and, as he believed, was intended by the framers of the Constitution, to be placed, they could establish a general system, by which the currency would be rendered uniform and stable, throughout the country, exchange facilitated, and the funds of the Government transmitted in a single week, from Maine to Louisiana, without disturbing the regular business of the country. In 1816, and for a long time after, a national bank was considered as constitutional. I do not allude specially to the United States Bank—because that, I know, would create a ferment here—but to any national bank. I refer to the Bank of the United States only for the purpose of illustration. But the establishment of the United States Bank was considered as being strictly within the power of the General Government, even by the gentleman from the county of Philadelphia, who in 1830-31, brought forward resolutions, in the Legislature, expressive of the opinion that a national bank was a constitutional and useful institution. [MR. INGERSOLL. I think so still.] Yes, (continued Mr. S.) if you can have it at New York, and turn out NICK BIDDLE, and subject the whole machine to the control of the party. Were not the bills of this bank better than gold and silver, and better not only in New York and Philadelphia, and in Maine and Missouri, but in China and Calcutta? Where, on the face of the Globe, was there a currency equal to that which we had when the Federal Government exercised a power over the currency, through a national bank; exercising a concurrent sovereignty over the subject with the States, and regulating and controlling the operations of the State banks. But the Government discarded the bank, waged a war against it, and the bank and the country fell. The consequences were soon made apparant. The Government having refused to exercise its power over the currency, and having withdrawn itself from all connexion with a national bank, as such, every State in the Union began to multiply banks and increase its paper issues. We see every petty corporation and every knavish speculator issuing their paper, and we see the whole country flooded with a spurious, depreciating, and inconvertible paper currency. From a national bank as a fiscal agent of the Government, there is little danger of a corrupt influence. The number of stockholders and officers is comparatively small. Very few are interested in it, and there would be little danger of its exercising an improper influence, even were it united with the Government, other powers of the Government were capable of a far greater degree of abuse and mischief. The patronage of the Government could be exerted for purposes much more extensive and injurious. The moment that the bank refused to become the party ally of the Conqueror of New Orleans and of his minions—the moment that it determined to adhere to the proper and legitimate objects of its creation, a war of extermination was declared against it. First revenge, and then aggrandisement, prompted the hostility of the Government to that bank. They selected sixty banks; and, as the number of persons employed and interested in each one, was about the same with that in the national bank, and as each institution acted on about the same number of individuals, they multiplied the corrupt influence and patronage of banks sixty fold. I do not believe, sir, in human perfection, nor in the moral purity of human nature. “Lead us not into temptation” was



the prayer of him who knew the hearts of men. If men were angels they would not be endangered by temptation. But it was as necessary to shield us from temptation as to govern us by laws. Every State in the Union must be yoked to, and controlled by, the central power at Washington, unless some means could be devised for preventing the Government from connecting itself with the State banks. Besides the political influence wielded by the Government through the despotic banks—an influence which was strong enough to enable the administration to sustain and perpetuate its power—other corruptions sprung from this unlawful connexion. The public money in the deposit banks is made the spoil and plunder of the partizans of the administration. It is used for the purpose of enriching bank and Government favorites, at the expense of the people; and those who contrived the system, and countenanced these abuses, no doubt shared in the spoils.

Nothing can deliver us from the corrupting and dangerous influence of this system, but some measure which will put it out of the power of the Government to continue it. We must cut up this tree of evil by the roots. As long as the Government exercised its proper and legitimate power over the currency, through a national bank, so long we were safe; but, under this system, no man is, for a moment, secure in his property or in his industry. The enterprising merchant, the hard working farmer, and the industrious mechanic, saw the fruits of his labor destroyed and his prospects blasted, as suddenly and as effectually as if a tornado had desolated the country. I know that the winding up of so many banks may create much embarrassment for the time, and be attended with a general depreciation of property; but, had we not better undergo this inconvenience in order to found a better and a more permanent system, which will secure us against these sudden and desolating revulsions, and free us from the thousand corrupt and mischievous influences of the system which the national Government has attempted to fasten upon the country. It would be better to make an effort for relief than to remain in this hopeless and dejected and debased condition. Things are daily becoming worse, and no aid can be expected from the Government. The demagogues, the little corrupt demagogues, who occupy the high stations, will still continue to drive their armed chariots, with cold, sardonic smile, over the subdued and prostrate people. What relief can be expected from them? To ourselves, and not to the Government, must we look for a mitigation of the evils which the Government has brought upon us. Power always corrupts its possessors, and turns away their hearts from the people, whose voice they will not hear, and whose calamities they will work out. As the only mode which has occurred to me, of remedying the evils under which we labor and of preventing their recurrence, I shall vote for this amendment; and those who think differently from me on the subject will, of course, vote against it. I think it is time to deprive the General Government of the means which the State banks afford it of misleading, and corrupting, and tyrannizing over the people.

Mr. STERIGERE said he did not know that he could add much to the stock of information necessary to decide the questions pending. He would not have risen, but for some personal knowledge he possessed concerning one matter of legislation which had been frequently referred to—the *feme covert* law.

In regard to the amendment offered by the gentleman from Adams, to prohibit the Legislature from chartering any banks—he supposed at first that it was intended as a joke—but from the gentleman's argument and manner, he concluded the proposition was seriously made. He thought it was introduced at the wrong place. He had, however, but a few words to say about it. No matter what may be said about banks, and the evils arising from them, every man of common sense must admit that we cannot get along without them. They are necessary to enable our citizens to carry on the commercial, and other business, in which they are engaged. They have become necessary to every description of our citizens, and the business and circumstances of the people must be entirely changed before we can dispense with banks altogether.

There is another objection to the proposition. The bank of the United States has been chartered for thirty years, with authority to establish branches throughout the State. The charters of all the other banks in the State will expire in less than ten years, he believed. When these expired, of course, the Bank of the United States would be the only institution of the kind in the State, and would transact all the banking business in the State. If no banks could be chartered, we should be flooded with the paper of the banks of other States, and that of the United States Bank, while it existed.

So far as it respected the amendment offered by the gentleman from the county, it appeared plausible, and at first struck him with some force; but, on mature reflection, he was convinced it would be inexpedient to adopt it. For forty-seven years the Legislature had exercised the remedial powers which this amendment proposes to take from them, which had been productive of great benefit to the community, without objection, and he doubted whether any portion of the people desired it should be taken away. In every Government authority must exist some where, to grant relief in extraordinary cases. A form of Government, without such authority, would be defective. It would be most republican to vest this in the legislative branch, as that is most under the control of the people. We are not now called upon to give this power to the Legislature, but to take it from them. If the Legislature had abused the power, it might be proper to take it away. So far from that, it appears, from all we have heard and all we know, that this authority has been exercised with great care and caution, and only in cases of absolute necessity, to prevent injustice and litigation. The account the gentleman from Franklin gave of the exercise of this authority, he did not think was quite fair. The explanations given by the President of the Convention, and the gentlemen from Lancaster, Adams, and Philadelphia, in relation to some cases mentioned, showed that the Legislature had not acted on *ex parte* statements, and without due consideration. He had himself drafted the *feme covert* bill as it is now acted into a law. It originated on the memorial of a gentleman from Chester county, who held a large estate under deeds which had been defectively acknowledged, presented at the session of 1824–5, which was referred to the judiciary committee of the House of Representatives, who reported a bill which was unsatisfactory, and which produced a great deal of debate. The bill was changed back and forward several times, sometimes with a large majority one way, and sometimes the other way. But, eventually, it passed the House by a large majority, but was not

acted on in the Senate that session. At the next session it passed into a law, without any alteration, and with very little opposition in either House. So that, instead of this law having passed, merely on the statements of an individual interested, and without due consideration, it had received very great attention, and was enacted on a full conviction that the interest of the community required it. No man can estimate the injustice and amount of litigation this single act has prevented.

This kind of legislation must have the sanction of the Executive and Judicial departments. The Governor must approve, and the Judiciary carry the law into effect. The amendment does not provide for the entire separation of the legislative, executive, and judicial branches. It allows that they may be blended—its purpose is to prevent the Legislature from granting relief, where the laws admit of none. As that branch had exercised this power, with so much caution, prudence, and wisdom, for so long a time, he thought it would be wise to let it remain there. There might occasionally be instances of hasty and improper legislation of this kind, but they would be more than counterbalanced by the injustice and litigation it would prevent. He, therefore, trusted that in this particular, the Constitution would be permitted to remain as it was.

Mr. FULLER, of Fayette, merely rose, he said, to say that he would vote for the amendment offered by the gentleman from Adams, and if it did not succeed, he would then vote against the proposition of the gentleman from Philadelphia county. He believed that the people of Pennsylvania, generally, were opposed to the banking system, as it was established in the State; and, he would go with the gentleman from Adams, as far as any one, to cut it up. He was sure that he would be borne out by his own constituents, in any measure, for getting rid of the multiplied and increasing evils of the banking system. But, in regard to the original amendment, he was not willing to give his vote in favor of it, though he entertained a high respect for the source from which it emanated. The people of Pennsylvania had complained of no injury from the want of any more strict distribution of power than the present Constitution afforded. If we burdened the instrument with amendments uncalled for, and not wanted, the people would be disappointed. The amendments which the people wanted were few, and, as the gentleman from Luzerne had correctly said, simple: and any amendment which was not wanted, he would oppose, even if it came from his best friends. He had never witnessed any instances of judicial legislation by the Legislature, nor of the usurpation of any power not belonging to them. In respect to the cases which had been urged here, it had appeared, upon strict investigation, that the Legislature did not, in those instances, interfere incorrectly or injuriously. The course of the Legislature, in regard to the case which occurred in his county, was approved of there; and, had he been in the Legislature at the time, he would have voted for the bill that was then passed. He would vote for the amendment of the gentleman from Adams, in opposition to the banking system, and then against the amendment of the gentleman from the county.

Mr. M'CAHEN had felt little interest, he said, in the proposition of his colleague, and his attention was drawn to it by the amendment and speech of the gentleman from Adams, who had made it the occasion of a tirade against the Government and its friends. Whether the gentleman from

Adams was in earnest, or not, he did not know, nor whether he would vote for the proposition, if it should be amended according to his motion; but, one thing he knew, that his remarks to-day were very inconsistent with those which he recently made on the same subject. Any one who did not know to the contrary, would suppose, from his speech to-day, that he is an ultra anti-bank man. But we have had enough of these speeches addressed to the lobbies, and of propositions made to consume the time, and he trusted that we would be permitted now to proceed with our business.

Mr. STEVENS: If the gentleman will only let me off now, I will promise not to do so again.

Mr. STERIGERE: The gentleman, I hope, will accept, as a modification of his amendment, the following clause, to come in at the end—"and that all the charters of banks, now incorporated, be repealed".

Mr. STEVENS: The gentleman should add further, "and that all persons should be allowed to steal as much as they please", for it would carry out the principle of his suggestion.

Mr. EARLE, of Philadelphia, did not wish, he said, to take up this question till after harvest, but as it was here, he would say a few words in regard to it. He would support the amendment of the gentleman from Adams, and he would here take occasion to correct a misconception of his views on the subject of banking, as expressed a few days since. A colleague of his had received a letter from one of his constituents, stating, that he understood that he (Mr. E.) had advocated the Bank of the United States, and the Bank of England. This was directly the reverse of the fact. All the members of the Convention were aware that he had said, those institutions were among the greatest evils existing in the two countries; that, though honestly conducted, they would produce mischief, and he believed them to have been the cause of the present distress. It had been published that he (Mr. E.) had opposed the printing of the report on banking, made by the committee, of which his colleague (Mr. INGERSOLL) was Chairman. The Convention knew this was not the case: that 4200 copies had been printed, and that he had only objected to printing more at the public expense, as being unnecessary.

He would support the amendment, because it was against monopolies; he believed that every monopoly was an infringement upon the people's rights.

He would now explain the manner in which those great monopolies, the banks of the United States, and of England, were pernicious. It was because of their power to produce fluctuations in the value of currency and the prices of property—a power which they would exercise at one time or other to the public injury. The friends of those institutions had said they were great balance wheels, having power to regulate and control the currency. They were for giving up this power to a private corporation—to a few directors not chosen by the people. This was anti-democratic. They had regulated the currency injuriously. The principal commercial distresses of the two countries were caused by these regulations. They issued too much currency at one time, and too little at another. The smaller banks were obliged to curtail when the larger ones did so, and they would expand when the large ones expanded.

The Bank of England, many years ago, suspended specie payments;

and when it resumed, general distress and ruin was the result. The Bank of the United States had discounted with excessive liberality, about the years 1818-19, under the administration of Mr. JONES ; it had increased its circulation with but little specie, until it was on the verge of insolvency. On one day it had but a few thousand dollars remaining in its vaults. The directors were obliged to retrace ; they elected Mr. CHEVES president, and he pursued a policy as rigorous as that of his predecessor had been lax. The curtailments were unnecessarily sudden. The result was general distress and embarrassment, which pervaded the whole country, and was far more severe than that of the present year. In Philadelphia, the failures, and the stores to rent, were far more numerous then than now.

Again, in 1828, a period of pressure arose that was felt, particularly, in the eastern States, where a large number of the manufacturers failed. A friend of the United States Bank had informed him, that the managers of that institution had foreseen this crisis, and prepared for it by curtailment. Might not these curtailments have been the real cause of the embarrassments of that period ?

In the fore part of the year 1834, the Bank of the United States, from an alleged apprehension of injury from the Government, had curtailed its discounts with an excessive and ruinous rapidity. It accumulated in its vaults the enormous sum of thirteen millions of specie, when it had a circulation of but eighteen millions, or thereabouts. The natural consequence of this was embarrassment in all commercial transactions, and a great fall in the prices of property throughout the country. About the same time, the Bank of England had specie in its vaults, nearly to the amount of one half of its circulation. In the years 1835-6, both these institutions improperly expanded their loans and issues. The Bank of the United States, although it reduced its capital nearly one half by the sales of its branches, increased its circulation to a very great extent. This, too, was done at a time when the specie in its vaults, as well as its capital, was diminished. The bank in this expansion was followed by the local banks, which produced a sudden rise in the prices of property and produce, and the result of this was a system of speculation, which went on with increasing power until the currency in its expanded state was insufficient to make the daily payments. Then came the crash, which was more immediately produced by the conduct of the Bank of England. That institution, in its expansion, had discounted so liberally, that merchants at London, Liverpool and Manchester, engaged in the American trade, had given letters of credit, or permission to draw for large amounts in advance, on intended shipments to be made from this country, when the crops came in. Some months since, it found that its specie was rapidly departing, and that curtailment was indispensable. Instead of curtailing gradually and wisely, by diminishing weekly a very small per centage on all its discounts, it selected the merchants in the American trade for its victims, and made a sudden and almost total cessation of discounts of American bills. The effect of this measure was, that those merchants were obliged to cut short their accommodations to merchants in this country, and dispose of the cotton they had then on hand at forced sales and reduced prices, to obtain money. This produced the failures in New Orleans and New York, and,



the sudden and almost unprecedented fall of cotton which carried distress throughout the south and south western country. The directors of the Bank of England had admitted, in effect, that this fall of cotton was caused by their change of policy; for, on a late application from Liverpool and Manchester for loans, they had refused them, because the consequence would be a rise of one or two pence per pound in cotton, which they alleged would be unjust to the public. It would have been unjust if the reduction had not been brought about in the manner it was, but as the bank had caused the unnatural depreciation, it would have been just. In this way these great institutions were productive of the greatest evils, and this state of things would continue to exist unless the Government made some provision by which to regulate them.

But he was opposed to the whole banking system—to all monopolies, and exclusive privileges—and to all restrictions upon the management of private business, in such manner as those who carried it on thought best for themselves, provided they did not encroach on others. He would let every man sit under his own vine and fig tree, with none to molest or make him afraid. He would allow individuals to use what they pleased in making exchanges, so that both parties were agreed. He would allow them to use gold, silver, wheat, shells, beads, or paper, and he felt sure that when left to themselves individuals would find out and practise the best system, as they did in relation to ploughs, steam engines, and all the arts. He held that the interference of Government, by forcible regulations, had the same effect as it would have had to have prescribed what mechanical machines should be used in our country.

Men of both parties had committed an error in disputing about the mode by which the Government, State and National, should regulate the amount of currency to be dealt out to the people. The action of the Government should be confined to enforcing contracts, and preventing or punishing frauds. They might properly put a stamp on coin to show its weight and purity, or a stamp on paper, as evidence of the security given for its payment; but to regulate the amount of either, as was now done, was as pernicious as to regulate the supply of wheat, or any other article. Suppose the last Legislature had passed a law, directing the quantity of wheat to be sown this year—would there not have been too much, or too little? Would not the quantity be nearer right, when left to the operation of natural causes? The very attempts made by the Legislature to produce uniformity of currency, by prescribing the number of monopoly corporations which shall issue it, produce the evil which they are designed to prevent. If an individual were to select others, as the guides or physicians to regulate the quantity of food he should eat, and change the physician every day, it is easy to perceive that he would be very irregularly fed, and much worse than if left to the dictates of his own appetite. The Legislatures undertook to regulate the amount of currency and the number of banks, and these Legislatures were changed every year; and by this means the people were starved for one or two years, and then fed to plethora by a new set of political doctors, as the experience of this and other States would show. These doctors did not act entirely upon their disinterested judgments, but their power to grant monopoly privileges, introduced corruption into our Legislative Halls. The views which he entertained in relation to free trade and banking, he had expressed in a



pamphlet, published fourteen years ago, which was now in the hands of one of the members of this body. As allusion had been made to this matter, he would take this occasion to say, that he should vote according to those sentiments, and to those which he had expressed at home before his election. But do you always find in the votes of your Legislators, adherence to their professions, in election speeches and newspaper paragraphs? Some persons held up gold coin at public meetings, as the only true currency; and, when elected, voted to double the banking capital of the State. We heard a great deal before the meeting of the last Legislature, about a specie currency, yet when it came to the trial, the bill to prohibit the circulation of small notes could not be reached; and after all that we have heard on this subject from members of Congress, we have seen them of both parties, after becoming largely indebted to the Banks of the District of Columbia, for money for land speculations, recharter those banks upon the old plan. We know that corruption in obtaining charters in the State of New York, has been proved; and well informed men are convinced, that improper influences obtained them in this State. Those who wished to obtain charters, gave large sums of money to borers or lobby members, which sums were never returned. Some was expended in luxurious eating and drinking, and what became of the rest we know not; but we do know that those who expend the most money to employ borers, were most successful in obtaining charters, while the applications of the less wealthy were rejected. We also know, that members of the Legislature have placed their relations and friends as bank commissioners, to distribute the stock; that they refused to word the law so as to secure an equal and fair distribution; and that the commissioners and members got the stock, to the exclusion of the people at large. Let us, then, prohibit all special charters for business transactions; and we may have general laws to regulate them. The sessions of the Legislature will then be reduced in length; the public business now neglected will be attended to; and that corruption, which WILLIAM COBBETT has asserted, abounded more at Harrisburg, than at London or Paris, will be abated. If we abolish special charters and monopoly privileges, we may obtain general laws under which joint stock associations would flourish. Those associations were very beneficial in enabling the many of small means, to compete with the few of large means. They were essential in promoting the proper diffusion of property, and thus preserving the continuance of republican institutions. This doctrine had been sustained by Mr. TANEY, now Chief Justice of the United States, in a report as Secretary of the Treasury. It was sanctioned by a majority, in the last Legislatures of the States of New York and Michigan, and by one branch of the Legislature of Connecticut, recently. The Hartford Times, and Augusta Age, leading democratic prints in Connecticut and Maine, sustained it, together with able prints in the city of New York. The Scotch Banks on the free trade system, had been extremely stable; not one had failed in twenty years, and the currency had not fluctuated as in other countries. Under free competition the currency would be proportioned to the demand, and plans would be invented for equalizing exchange, better than any national bank could do it. Suppose that notes were issued in any State, amply secured on real estate, with a public stamp showing that security, and these notes bearing interest and redeemable at a certain date. Suppose a

western merchant sells his produce at New Orleans, for such notes, and brings them to Philadelphia to buy goods; they increase in value on the voyage by an accumulation of interest: the Philadelphia merchant takes them and sends them to New Orleans to buy cotton, and they are still increasing in value. Such notes would equalize exchange, and such notes would be adopted, if the laws were free.

Currency should represent value. Value is generally founded on labor. The average value of gold and silver is in proportion to the average quantity of labor required to dig the ore, and purify and coin it. But gold and bank paper fluctuate in value with the quantity in market, and currency on the existing system, generally tends to a security embarrassing business operations. The reason of this tendency is that it produces no income. But leave the people free to act, and a currency will be devised, secured on real estate, or otherwise bearing interest which will be equivalent to small mortgages circulating from hand to hand. Such a currency would be more abundant and more stable than our present bank notes. Such a currency had been successfully tried by FREDERICK the Great, in Prussia, and our Treasury notes which circulated in the late war, were similar in principle.

The gentleman from Montgomery has objected to the prohibition proposed, because the United States Bank charter will expire later than the others. This, however, he thought was no obstacle in the way, because the Legislature can repeal that charter if it sees fit, by making adequate compensation, leaving out of view the question of abstract right to repeal without compensation. The banking monopoly system and usury laws, founded on the same doctrine of governmental interference with private business, are directly anti-democratic in their effects as well as principles. The party having most wealth always took especial care in the city and county of Philadelphia, to obtain the control of all the banks by procuring the election of a majority of the directors of that party. It was not then to be expected that those men could have the same good estimate of the merits of political opponents who might apply for loans, as of those of their own party; for men's opinions of the personal merits of lawyers, doctors and merchants, were often affected by the circumstance of agreement or disagreement in political matters.

The usury laws prevent poor men from rising. A man with industry, skill and economy, but without wealth, or wealthy friends, can afford to pay two or three per cent more interest at banks, than a man nursed in the lap of luxury, with little skill and industry, and living expensively. The latter individual, under our present system, obtains bank loans, because he has friends in the direction of the banks, and wealthy relatives to endorse for him. The former is refused, because without those aids, and because your law will not permit the banks to loan him at a little higher rate than to the other man. But if you repeal all interference with private business and contracts, and allow free competition, men will not fail of their just success, either because of politics, or of the want of wealthy friends or relations.

Mr. INGERSOLL said the amendment he had proposed was an important principle in Government, and he had moved it for the purpose of calling out an expression of opinion in relation to the subject, so that he might have all the lights which were necessary to a correct understanding of the

case. As to the amendment of the gentleman from Adams, (Mr. STEVENS) he had not, in the first place, thought the gentleman to be serious in relation to it, but, since the gentleman had favored the Convention with his speech, Mr. I. flattered himself that the sentiments contained in the report he had made on the subject of the currency the other day, were not so much out of the way as the gentleman from Adams had supposed them to be; indeed, the gentleman had made use of the same sentiments in his remarks in a more forcible manner than Mr. I. had used them in his report, and when he went among those "raw Irish and imported democrats", of which the gentleman had spoken, he should tell the "JACK CADES" not to meddle with Mr. STEVENS, as he was on the same side with Mr. I. It seemed to him that the gentleman from Adams, in his objections to a State currency, had even gone further than Mr. I. had proposed to go. As to the remedy for this evil he was prepared to go into that question at a proper time, and contemplated expressing his sentiments at some length before the close of the session of the Convention. As to the allusions made to an opinion of his in relation to the constitutionality of incorporating a United States Bank, he was able to sustain himself on that subject, and he would merely say, that he entertained the same opinion now which he had ever entertained. He was not now prepared to vote for the amendment of the gentleman from Adams (Mr. STEVENS) because he did not know but it embraced more than he himself contemplated, and he could not say that he was prepared to go against the creation of all banks hereafter, as he did not know but banks might be hereafter very different institutions from what they were now, but if the gentleman would insert in his amendment such terms as would prevent the creation of such institutions as we have at present, he should, perhaps, go for it. His own opinion was that the banking system ought to be regulated by the Government of the United States, and the only objection he had to that part of the argument of the gentleman from Philadelphia, (Mr. EARLE) was, that there was a Constitutional bar in the way. The Constitution of the United States says that the Government of the United States has the power to regulate the currency; but it did not follow that it was to be regulated by a National Bank.

Mr. EARLE had said that the Government of the United States only had the power to coin money.

Mr. INGERSOLL: It has the power to coin money and regulate the value thereof. Mr. I. had intended to go into a tedious and uninteresting discussion to every person except those who were disposed to look at things through a particular medium; he would not say a forensick medium, but such a medium as applied directly to the ground work or root of the Constitution. He had heard nothing yet which shook his faith in this proposition, and much of the argument, even of those who opposed it, went to show the necessity for such a clause. In this country it was necessary that restraints should be put upon the Legislature as much as upon any other branch of the Government. The principles acted upon in our Legislatures are very different from those practised upon in the English Parliament. There the moment a member goes to Parliament he considers himself independent of the people who sent him there, because the sovereignty rested in the Parliament; here, however, the case is very different, as the sovereign power rests with the people. As he desired to discuss the subject of his

amendment at some length, and the hour was late, and he could not be here on to-morrow, he would be pleased if the committee would rise, and allow this subject to be postponed so as not to come up to-morrow. There were other subjects which the committee could proceed in the consideration of without any loss of time, therefore, he hoped he might be so far indulged as to have this subject postponed for the present.

Mr. INGERSOLL, on reflection, said he would withdraw his proposition as the most easy mode of postponing the further discussion for the present, but he afterwards changed his intention and moved that the committee rise.

Mr. DARLINGTON, and Mr. DUNLOP expressed a hope that the committee would not rise.

The motion that the committee rise was then negatived, and

Mr. CURLL said: Mr. Chairman—I am of opinion that a sufficiency of the time of this Convention has already been spent on this subject, and that we are about to be called in question by the people for the uproar created on other subjects not contemplated by them as amendments to the Constitution. I am surprised that gentlemen adhere so pertinaciously to propositions, that, after all the arguments adduced by the talented gentlemen on both sides, I cannot see that any practical good or evil would result from their being incorporated in the constitution: and although somewhat taken at first with the amendment offered by the gentleman from Adams, against banks, as being myself opposed to the system under its present organization, yet, gathering from the drift of that gentleman's learned, yet popularity-seeking argument, that the evil he appears desirous to put away and deliver us from, may be intended to lead us into a worse evil, to wit: the aggrandizement of his thirty years' "monster"—I cannot favor or vote for his amendment. As the gentleman passed on with his elaborate declamation, I became more and more alarmed; I thought I perceived the horns of the monster extending and growing larger and larger, until at length, sir, they had pushed the Little Magician out of his chair, overturned the treasury circular of the old tyrannical Roman, as Gen. JACKSON has been called, and placed the crown upon NICHOLAS.

Mr. Chairman, I am opposed to the banking system, as much so as my friend from Philadelphia, or any other man: so are many of my constituents; and although gentlemen think the pressure and panic is only felt in the great commercial cities, it is all a notion: it pervades the whole community. I have the honor to represent a farming district; I am a farmer myself; and so much is the stoppage of specie payments felt, that in a letter received to-day from one of my constituents, he says the people there wish the banks destroyed. Another gentleman of learning and experience, after giving me his views on amendments, closes with a desire pretty much in unison with a resolution offered by me some time ago, and on the files, to wit: restricting the Legislature on the subject of banking. I shall, therefore, when the yeas and nays are called, vote against the amendment offered by the gentleman from Adams.

Mr. SERGEANT (President) expressed a desire to ask the gentleman from Philadelphia county, a question. That gentleman usually gave the Convention the results of his own thoughts. Sometimes (said Mr. S.) I agree with him, and sometimes I do not. I think he has, in his remarks this morning, been mistaken as to a point of fact. Has the gentleman assured himself that there was a curtailment of issues by the United States

Bank in 1828? He says, he has been told so. I think, if he will examine for himself; he will not find that during the administration of the present President of the Bank of the United States there have been any instances of curtailment of issues. It is a peculiar feature in the administration of that gentleman, above all others, that he has uniformly foreseen the difficulties which are approaching, and has met them by a proper system, and by extending the discounts in times of embarrassment. It would be no more than proper to say that in his administration until the difficulty occurred between him and the Government, no such calamity as that we have since endured, had come upon it. Another question he wished to put to the gentleman from Philadelphia was—How he had ascertained that the profits of mining for gold and silver were equal to those of working the land? He had always thought otherwise.

Mr. EARLE replied that on the subject of the curtailment, he had merely expressed what had been communicated to him by another, and not from his own knowledge. He had no intention to impeach the management of the Bank of the United States. It was human to err, and in such an institution, it was to be expected that error would sometimes creep.

With regard to gold and silver mines, he had taken considerable pains to obtain information. And, the result of his inquiries, which were much to his satisfaction, was—that of gold and silver mines, as with land, there were some, which were productive, and consequently commanded a great price, while, there were others of medium quality only, which would merely defray the expenses. There were some mines, which would not liquidate the expense of the labor, as was the case with land sometimes. The high price of gold and silver, in every country, depends upon the demand for it—from whence it is brought, the market to which it may be taken, and the expense incurred by transporting it thither. Mines, too, like lands, must be well worked to produce a profit.

Mr. SERGEANT observed—that the results to which the gentleman from the county of Philadelphia (Mr. EARLE) had arrived at, were not to his (Mr. S's.) mind satisfactory—because the information was not matter of fact. Of all things in the world, he had always thought that the price of gold and silver was the most fluctuating, and that in respect to mining—which resembled downright gambling—one man might make twenty millions of dollars, while, on the other hand, another would make nothing. It was very true as the gentleman had said, that all men were liable to err, and so was a body of men. And there could be no stronger proof of it than in the gentleman himself—when he said that the Bank of the United States had reduced its capital one half. Now such a thing has not been done. The bank had never sold or parted with any part of its stock or capital, with the exception of that belonging to the Government of the United States. It had only changed its debtors. The stock of the Government amounted to one fifth of the whole capital. The capital had evidently increased to that extent.

Mr. EARLE begged to say that he was not mistaken, but was misunderstood. He did not know exactly what might have been the words he had used, but he meant to say, that at the time the bank charter expired, the bank, besides what it owed the Government, sold its debts to banks



in Kentucky, Louisiana, at New Orleans, at Boston, and other places. But, to how many he did not know.

With regard to gold mines, about which he had spoken, he was perfectly right. There were frequently veins of gold ore found, and a man might, per chance, find a piece of gold, or a diamond that would make his fortune. But, the business of working gold mines, and that of hunting for diamonds, was entirely different.

Mr. READ, of Susquehanna, asked whether this discussion was pertinent to the question before the committee, for he much doubted it.

The CHAIR said that it was, as it was explanatory of what had been said.

Mr. EARLE proceeded.—There are regular veins of gold, mixed with alloy.

The CHAIR remarked that he did not see, exactly, that it was necessary to go into a detailed description of gold mining.

Mr. EARLE said that he was going on to show the process of mining.

Mr. SERGEANT observed that the Bank of the United States did, as the gentleman had said, sell out its debts with a view to wind up. The debts due to it were from banking institutions, and they gave the bank their obligations, instead of the obligations of individuals. And, the amount of their liens was not altered by the adoption of this course, making a fair allowance for contingencies. There was no reduction of the stock, nor of means.

Mr. EARLE said, that when a bank had notes coming due, say to-morrow, or the next day, that was actual business. But, when they sold out their debts, for three or four years, it was not doing business in the regular mode, and was the same as if the debts were not due.

The question being taken on the adoption of the amendment, it was decided in the negative.

YEAS—Messrs. Brown, of Philadelphia, Clark, of Dauphin, Clarke of Indiana, Crain, Donagan, Earle, Farrelly, Fuller, Gamble, Gearhart, Gilmore, Hamlin, Houpt, Hyde, Ingersoll, Krebs, Magee, M'Cahen, Merrill, Miller, Montgomery, Overfield, Read, Rogen, Sellers, Sheets, Smith, Smyth, Stevens, Stickel, Swetland, White, Woodward, Young—34.

NAYS—Messrs. Agnew, Ayres, Baldwin, Banks, Barclay, Barndollar, Barnitz, Bayne, Bell, Bigelow, Bonham, Brown, of Lancaster, Brown, of Northampton, Butler, Carey, Chambers, Chandler, of Chester, Chauncey, Clapp, Clarke, of Beaver, Cleavinger, Cline, Coates, Cochran, Cope, Cox, Craig, Crum, Cummin, Cunningham, Curll, Darlington, Darrah, Denny, Dickey, Dickerson, Doran, Dunlop, Fleming, Forward, Foulkrod, Fry, Grenell, Harris, Hastings, Hayhurst, Hiester, Helffenstein, Henderson, of Allegheny, Henderson of Dauphin, High, Hopkinson, Jenks, Kennedy, Kerr, Konigsmacher, Long, Lyons, Marclay, M'Call, M'Sherry, Meredith, Merkle, Myers, Pennypacker, Pollock, Porter, of Lancaster, Porter, of Northampton, Reigart, Ritter, Royer, Russell, Saeger, Scott, Sill, Snively, Todd, Weidman, Sergeant, *President*—79.

Mr. CLARKE, of Indiana, moved that the committee rise, which was not agreed to. Ayes 48, Noes 47.

Mr. INGERSOLL was, he said, perfectly willing to proceed. This was a subject of much importance, and one concerning which he had heard and read so much, that he had thought it proper to introduce it here, and leave it to its fate. He did not desire immediate action upon it. He would say at the beginning of his argument on the subject, that this was a radical question, one that lies at the bottom of all Government, no



matter how organized. He should feel considerable hesitation as to the manner of treating the question, were it not for the learned and powerful argument of a gentleman (Judge HOPKINSON) whose opinions were entitled to carry authority with them, which had put the question in a simple point of view. His argument was, that the proposed provision is in the Constitution, and that argument he intended to call to his assistance. If the provision is now in the Constitution, then, all that has been said against the novelty and the danger of the proposition, is put out of the question.

Mr. CLARKE, of Indiana: If the gentleman will give way, I will move that the committee rise.

Mr. DARLINGTON: I am very anxious to hear the gentleman out. If we do not, we must make two days of it. I am willing to hear the gentleman this afternoon.

Mr. FORWARD: I readily concur with the gentleman from the county of Philadelphia in the importance of this subject, and I hope we shall hear him to-morrow.

Mr. INGERSOLL: To-morrow I shall not be here; but I do not care when I am heard, so the argument be not suppressed altogether.

Mr. DICKEY: Too much time has been wasted already. I hope we shall go on.

Mr. FULLER suggested a meeting in the afternoon.

Mr. HOPKINSON: The gentleman is entitled to an opportunity to make a full reply to all the various arguments urged against his proposition, and at a time when the committee are less weary and impatient than they now are.

The committee then rose, and the question being when it should sit again, Monday was named, also half past three o'clock P. M., and the 4th of July.

On motion of Mr. CHANDLER, of Chester, this question was postponed for the purpose of enabling him to move, that when the Convention adjourns, it adjourn to meet again this afternoon at 4 o'clock, and the motion to meet at that hour was agreed to, 61 to 20.

The Convention then adjourned.

### AFTERNOON SESSION.

The Convention again resolved itself into committee of the whole, Mr. PORTER, of Northampton, in the chair, on the first article of the Constitution.

The question pending was the motion of Mr. INGERSOLL to insert the following, as the first section of the first article:

#### ARTICLE I.—DISTRIBUTION OF POWER.

The respective powers of Government, Legislative Executive, and Judicial, are by this Constitution severally distributed in three distinct branches, viz: The Legislative, the Executive, and Judicial, neither of which separate branches shall exercise the authority of either of the others, except where this Constitution so authorizes.

Mr. INGERSOLL said there were two questions: first, whether the powers of Government ought to be distributed into departments, and, secondly, whether they are so by the present Constitution. Mr. SERGEANT, Mr.

FLEMING, and perhaps Mr. BELL, deny that they ought, while Mr. HOPKINSON contends that they actually are so already.

Messrs. ROGERS and BROWN have proved, conclusively, that they ought to be, and their argument Mr. I. would not reiterate.

There were but two objections made: first, to all change whatever, and, secondly, to this one.

Mr. I. took up the second first. Mr. SERGEANT offered no reason for this objection, which proves, as he failed, that none can be. He had, perhaps, explained away the cases cited by Mr. DUNLOP, but without affecting the principle of which they were but instances. That principle is, as demonstrated by the Censor's report, that under the Constitution of 1776, the Legislature had gone into excesses, and trenched on the other departments.

That derangement of the system, Messrs. SERGEANT and HOPKINSON had imputed to FRANKLIN's favorite Government—a single branch: but, was it not rather owing to inherent vice, viz: the want of distribution with guards?

Mr. I. had never, as supposed, expressed preference for the Constitution of 1776; but the contrary—he considered that of 1790, better. Both, however, were made without the experience of which we enjoy the benefit.

Messrs. SERGEANT, BELL, and FLEMING, object: first, *unforeseen* consequences of the proposed change. But Mr. HOPKINSON insists that there will be no change, that the *principle* is already in the Constitution, and only a new *clause* is proposed. Certainly, all *philosophy* recommends it.

Again: Messrs. FLEMING and BELL dread the *litigation* to ensue. But Mr. I. said, his object was not to prevent *remedial* acts of legislation; only such as are obviously judicial, or needlessly and dangerously declaratory.

Legislative usurpation is now extremely common. Mr. I. referred particularly to Mr. SERGEANT's argument in the case of *SATTERLEE vs. MATTHEWSON*, 2 vol. of PETERS' Reports, 357, and to Judge WASHINGTON's view, 412; also, to what Mr. WOODWARD authorized him to state of that odious case, as evidential of the monstrous and corrupt injustice, for which *no remedy* exists by any constitutional provision, of either the United States, or this State.

Mr. SERGEANT had boasted of the safety to be found in an independent Judiciary, able, and *not afraid* to vacate bad laws. Mr. I. said, that his own argument in *SATTERLEE's* case showed cases beyond judicial reach; and, besides, there were judges, the present Chief Justice of this State, for example, who declined to determine laws of the State to be unconstitutional.

In fact, this infant power of Courts of Justice was entirely of American construction, and denied by so many men of the first talents and integrity, as to be of very questionable reliance. Mr. DUNLOP had denounced a former member of the Legislature for denying it, but that member had high authority for it.

All judicial reliance, to correct this evil, was contrary to Mr. I's. view of it. Judges erred and differed, like others. What does *ex post facto* mean in judicial interpretation? Mr. BROWN, who said he could not tell, knew as well as contradictory judges had explained it.

We must rely, (said Mr. I.) not on Courts, but on Constitutions and elections, to rectify and prevent errors.

But Mr. BELL contends we have no authority, to which Mr. I. answered that our law books, statute books, and elementary works of Government, all abound with it. He referred particularly to 7 vol. PETERS' Reports, 546-7, and the Appendix 668, and to what is said by JAMES ROSS, Judge BALDWIN, and Chief Justice TILGHMAN, in the 4 vol. of BINNEY's Reports, 118.

Thus Mr. I. thought he had shewn: first, that the distribution of powers ought to be, but, secondly, that it is not in the Constitution—not there, *perfectly*, as it should be.

But Messrs. SERGEANT and BELL had asserted, what Mr. I. denied most earnestly and totally.

Mr. BELL calls himself a *conservative* reformer—the advocate of *representative* democracy, and argues that the Legislature are an immediate *emanation* from the people, holding their sovereign power.

Mr. SERGEANT went further still—he said that the Legislature are *the people themselves*, and that by electing representatives, the people *part with all their power*.

Against these propositions, one and all, Mr. I. most anxiously protested, insisting that they are totally and alarmingly unfounded.

All legislation, said he, is a *trust*, a *mere* trust—not indeed defined, but clearly *limited*. For instance, the right of popular instruction, he was aware, was denied by many most respectable statesmen, yet, is part of the Bill of Rights of nearly every one of the New England States.

The Constitution of the United States consists of *granted* powers—those of the several States of *limited* powers. The British Parliament is omnipotent. There the Parliament is sovereign—but here the sovereignty abides with the people, and never leaves *them*.

That *residuum* of power, which Mr. SERGEANT says, and truly, *must* be somewhere, is never where he says it is, in the Legislature, but in the people. They are the only sovereignty.

Mr. INGERSOLL's great desire was to curb legislative power, the most dangerous of all—most apt to consider itself, as Mr. SERGEANT and Mr. BELL consider it, but which it clearly is not, invested with the sovereignty.

Many members, and several committees, had proposed restraints on this most errant of all power.

Mr. I. read passages from Judge PATERSON's eloquent view of this subject, in the 2d vol. of DALLAS' Reports, the case of VANHORNE against DORRANCE.

You may strip the Governor of patronage, and render the Judges amenable, in vain, unless the Legislature be also restricted.

Mr. I. expressed his surprise that lawyers should oppose this indispensable restraint, yet, all the opposition came from them.

Mr. MERRILL said, we should have, at this rate, no Government at all. Mr. INGERSOLL confessed his object was to have as little, and that as well defined and limited as possible.

Parliament is restrained by *regulation*. The Legislature here used to be, as Mr. MERRIDITH would remember.

Mr. I. wished to keep as much Government *at home* in the people, as

could be, and to send as little from them. That, he thought, the best Government.

Three fourths of our legislation is such as is now limited, and prevented by preventive regulation in omnipotent Parliament.

All Mr. I. desired was to *organize* this power, always tending to excess, to put the restraint in the organic law.

Corporations, banks, divorces, the shocking instances mentioned by many members, numberless local acts of the most unaccountable kind—all this flood of legislation Mr. I. would confine within due bounds, and to a prescribed channel.

Mr. MERRILL's argument resolves all the powers of Government into an omnipotent Legislature, whereas Judge PATERSON, as before cited, denies even for taxation an absolute and unrestricted authority.

Secondly—Is the distributive principle already in the Constitution, as Judge HOPKINSON argues? Mr. I. referred to that learned Judge's opinion in the Appendix to the 7 vol. of PETERS' Reports, 688, for his doctrine, and to the same book, 547, for that of the Supreme Court, that if the distributive principle is in the Constitution at all, it is there *imperfectly*.

With great deference to Judge HOPKINSON, Mr. I. submitted that he mistook, when supposing that the *words* of the Constitution are now sufficiently distributive. The first article declares simply, that the legislative power shall be vested in two Houses, no more; and the second article, that the executive power shall be vested in one Government, no more; as the fifth article vests the judicial power in certain courts. But this vesting is merely to change the former Constitution from a single Legislature to two branches, and from a plural executive to one: that is all. The 13th section of the first article is perhaps doubtful; but the 6th section of the 5th article, Mr. I. considered clear, to shew that much judicial residuum is left in the Legislature.

If so, the principle of distribution is not in the Constitution, as Judge H. supposes; but, a despotism of judicial power is lodged in the Legislature.

This Mr. I. anxiously desired to prevent, so that all justice might be administered in appropriate courts.

If, indeed, the powers are perfectly distributed now, Mr. I. said he was content. But if not, then NICHOLSON's case, and SATERLEE's case, and others, shew that confiscation, attainder, *ex post facto*—every kind of unjust and individuated legislation, might be perpetrated with impunity.

Turkish Government is no worse. One hundred tyrants are as bad as one.

It results that either Messrs. SERGEANT, FLEMING, and BELL, are right, that all distribution of the powers is wrong, which Judge HOPKINSON denies, and all the rest agree is wrong; or, secondly, that our Constitution does now distribute power, but imperfectly; or, thirdly, that Judge HOPKINSON, and the Supreme Court of the United States are wrong, when they say that it is imperfectly done.

This is a triple and serious dilemma. It only remains, then, to meet Mr. SERGEANT's objection to all change whatever, which is easily done, by those who trust the people.

This Convention is but a special committee appointed by the whole State, with no power but to report to the whole State, the people alto-

gether, whose ayes and noes will then determine whatever changes, if any, are to take place.

This special committee (the Convention) is sitting without instructions from the people, so that Mr. PURVIANCE is right in saying, that we are in duty bound to report all such amendments as we deem advisable.

For we decide nothing. We can but recommend. The people—the whole House, will decide as they judge best.

With the amendatory power, as unanimously reported, adopted into the Constitution, this may be the *last* Convention *ever* to meet in Pennsylvania to revise a Constitution. Mr. I. considered this a great improvement, and that the present Constitution, instead of being perfect, is extremely faulty in the want of this great recuperative faculty.

Mr. BELL deprecates minutiae in constitutional provisions. Mr. INGERSOLL differs, thinking that too much detail can never be, while the power of gradual and deliberate amendment is always to operate.

That power will form the happy means between the British over plastic, unwritten Constitution, and over American written and unalterable charters.

Mr. I. wondered that lawyers should dislike this resemblance to the best feature of the common law, its adaptation advisedly to times, places, and circumstances.

The new Constitution of Delaware, one of the latest, altogether formed by a few lawyers, abounds with details.

The amendatory principle in the Constitution renders it a real representative democracy, while but slow to change, the Legislature not sovereign, but powerful enough for good.

It was the Supreme Court of the United States that first suggested to Mr. I. the apprehension, that the present Constitution of Pennsylvania is defective in its distribution of powers.

Judge HOPKINSON says, that perfect distribution will not prevent those fraudulent proceedings, of which Mr. ROGERS spoke with proper censure. Perhaps not. But we should at least endeavor, as courts of justice do, to prevent and to punish them.

Mr. I. said that the veto power, alluded to by Mr. SERGEANT, has become in practice, one of the greatest of all direct popular emanations. By the Constitution *what* is it? *Solely* executive? *Partly* legislative? Or *judicial* too?

Mr. I. had an eye to this immense power in his proposed amendment. Divorce, corporations, banks, local legislation, mixed powers, the veto power—all should, if possible, be brought within *certain* principles and regulations.

Mr. I. repeated Mr. DUNLOP's argument, that we should have the distributive principle declared, if only as a caveat, on the frontispiece of the Constitution.

Members were unwilling to trust a majority of the Legislature with impeachment; yet, would allow that majority to pass judgments and judicial acts. This terrible power lawyers were for leaving in profusion and confusion with the Legislature.

Mr. I. protested against such unrepubli- can ascription of illimitable authority.

What *harm*, said Mr. I., can distribution do? What harm it would

have prevented, let law books, statute books, and all the learning of legislation tell.

Mr. I. concluded by declaring, that he does not hold himself answerable for the amendment he proposed. That responsibility rests with the Convention. He had suggested it, on a full consideration, and anxious for its adoption, but with deference to the better judgments who were to decide.

[The above is a condensed view of the argument of Mr. INGERSOLL, presented by himself, in preference to the full report of his speech.]

Mr. EARLE moved to amend the amendment, by striking out the word "of", and inserting in lieu thereof, the words "belonging exclusively to".

Mr. INGERSOLL accepted the amendment as a modification of his substitute.

The question was then taken on the amendment of Mr. INGERSOLL, as modified, and decided in the negative—ayes 41, noes (not counted.)

The report of the committee on the first section was then agreed to.

The report of the committee on the second section was then read, being to amend the section of the old Constitution, by striking out the word "second", and inserting the word "fourth", so that it would read as follows :

SECT. 2. The representatives shall be chosen annually by the citizens of the city of Philadelphia, and of each county respectively, on the fourth Tuesday of October.

Mr. WOODWARD moved to strike out the word "fourth", and to insert the word "second".

The committee then rose, reported progress, and asked leave to sit again, and

The Convention adjourned.

### WEDNESDAY, MAY 31, 1837.

Mr. RITER, of Philadelphia, submitted the following resolution, which was ordered to be laid on the table, and printed :

*Resolved* That no bank, or other association with banking powers, shall be authorized to issue any note or bill for circulation, without the responsibility of each and every director, both personally and by his and their property, for the full payment in gold and silver, of all the notes, and for all other liabilities of such bank.

On motion of Mr. HIESTER, of Lancaster, the Convention proceeded to the consideration of the following resolution, postponed on the 25th instant :

*Resolved*, That on Monday next, and daily thereafter, until otherwise ordered, the Convention will hold afternoon sessions, and meet each day at half past 3 o'clock, P. M., for that purpose ; and that the Convention will regularly adjourn its morning sessions at one o'clock, P. M.

Mr. HIESTER modified the resolution, as follows :

*Resolved*, That on Monday next, and thereafter, the Convention will, until otherwise



ordered, hold afternoon sessions on Mondays, Tuesdays, Thursdays, and Fridays of each week, and will meet at 4 o'clock, P. M. on those days, for that purpose.

At the suggestion of Mr. STERIGERE, the resolution was further modified, by striking therefrom after the word "Resolved", and inserting in lieu thereof the following, viz :

"That hereafter, on every Monday, Wednesday, and Friday, the Convention will take a recess, from one o'clock to four o'clock in the afternoon, until otherwise ordered".

Mr. MARTIN, of Philadelphia, made a few remarks in opposition to the motion, grounded on the fact, that the standing committees had not yet gone through their duties, and would not get through for some weeks to come, and until their labors should be completed, no time could be saved by meeting in the afternoon.

Mr. JENKS moved to postpone the resolution for the present.

Mr. DICKEY asked for the yeas and nays on this question, and they were ordered.

Mr. DARLINGTON suggested, that if the change did not work well, it would always be in the power of the House to rescind the order. There were many who lounged away the afternoon, in a state of irksome inactivity, who would better be here. Unless some such regulations are made, the Convention would be sitting here in July, but by increasing the hours of labor, the business might be disposed of at an earlier period.

Mr. CHANDLER, of Philadelphia, congratulated the Convention on having its ingenuity and learning tested on a question of dietetics. It had been truly said, "*Salus populi, Suprema lex*"; and we might as well take care of our own constitutions, while engaged in guarding and improving the Constitution of the Commonwealth. He had come into the house late yesterday, and found gentlemen listening to a speech of the gentleman from Chester, (Mr. DARLINGTON) and, perhaps, it might be as well to hold afternoon sessions, for the purpose of disposing of speeches of this kind. Gentlemen who did not feel interested enough to listen, might then air themselves in the public square. The committee to which he belonged would probably meet twice this week, and they were approaching to an agreement. Perhaps, the best way would be to meet earlier in the morning. He was not a convert to the utility of afternoon sessions, but if they were to be tried, he would prefer the proposition of the gentleman from Montgomery to the original resolution.

Mr. BROWN, of Philadelphia, said he had a strong objection to experiments, and the experience of the Legislature shewed that the afternoons could only be profitably devoted to the private bills, and was decidedly unfavorable to the consideration of public business. We have no private bills, but, unless we intended to make trial of the strength of our bodies, and to perform the task of laborers, working from six till six, with an hour for dinner, he saw no reason for the change. Time was required to read and deliberate, and he would prefer to remain here until 3 o'clock, and to have the residue of the day free.

Mr. JENKS asked, who compose this large body? It is made up of farmers, physicians, and others accustomed to an active life. If so much labor is to be daily exacted from members, it requires not the spirit of prophecy to tell what will be the effect. More than one of this Convention would be destined never again to visit his family circle. He himself had found his health giving way; and this evil was not confined to him.

self. There were many, at this time, who complained of indisposition, on account of the change in their habits, and the long sittings in this Hall. He saw no public benefit to be derived from afternoon sessions, which only produced legislation of the worst kind. After dinner, gentlemen are too much fatigued to go through the business of legislation advisedly. Time should be allowed to collect the requisite information—four or five hours a day was sufficient to devote to public session, and he hoped, for these reasons, the resolution would be postponed.

Mr. HESTER remarked that the health of members was probably more endangered by the irregularity of their meals, in consequence of the uncertain length of the sessions, at present, than it would be by meeting here after dinner taken regularly. It should also be recollected, that the hot season of July is approaching, and it would be better to sit twice a day now, than later in the season.

Mr. CLARKE, of Indiana, hoped the resolution would be postponed. He did not pretend to be very quick in comprehension, but he thought the words that the Convention will take a recess on certain days named, signified that they would not take a recess on the other days, but would sit on till 4 o'clock. He looked at the subject in two points of view—the duty we owe to ourselves, and that we owe to our constituents. He had, himself, an iron constitution, and did not think he should be the first to give out, although he could not be positive. Providence had been very kind to him heretofore. Our constituents did not send us here to destroy ourselves, but to deliberate on, as well as to discuss, subjects concerning the public interests. We are precluded by our duty from much action. The business in a deliberative body, is quite different from any of the other business of life. There is a great deal of conversation about the business before the Convention, and the discussion out of doors, is, perhaps, more profitable than that on the floor. Here, one man talks, and the rest either listen, or are doing something else; but out of doors, all are engaged in discussing the topics. So much for our duty. Then there comes a question of policy. Our well fed Whig friends will find it difficult to leave their wine in the afternoon, but still they might do so. If he was sure they would not come, perhaps he might vote for the resolution. Our Anti Masonic friends, too, eat heartily, and it would put them to great inconvenience to bring them out in the afternoon. In the Legislature nothing but private bills were attended to in the afternoon. He hoped the subject would be postponed.

Mr. HOPKINSON said he had not the iron constitution which the gentleman from Indiana was favored with, but he was in favor of postponement. There was no vote taken in this Convention which was not of vital importance. In the Legislature, if an error were committed to-day, it could be corrected to-morrow. We were acting for future ages, and our decisions will influence generations to come after us. We ought, therefore, to be especially careful, that we do nothing without due deliberation. Yesterday, we tried the experiment of an afternoon session, and what was the consequence? When the question had to be taken on a very important proposition, there was not two thirds of this body present, while in the morning, the Convention was full. In the afternoon, the post office was filled with gentlemen, and about a dozen were asleep in their chairs. This is a spectacle not very creditable for letter writers to present to the

public eye. Suppose it was to be said, that one third of the Convention was away, and one third was asleep ; and the letter writers were to add by way of postscript, that those who had been the most active in the movement to get up afternoon sessions, were not themselves here ! This would, perhaps, be not very far from the truth.

Mr. STERIGERE said a few words in reply to the argument of the gentleman from Indiana, (Mr. CLARKE) and stated himself to be in favor of afternoon sessions.

Mr. M'DOWELL said he would vote in favor of the postponement proposed by his colleague from Bucks, because it was in accordance with the medical opinion of the House, and particularly because it was agreeable to his own feelings. While those gentlemen—the medical faculty—do not exceed their jurisdiction, he had no disposition to appeal from their judgment. He said, however, that he had another reason for the postponement ; he had a project in his head which, if he was permitted to carry out, would be of great benefit to the House and the people. He did not believe gentlemen comprehended the evil they were anxious to remedy. He wanted to lay the axe to the root. His project was this—he said he believed there were about eighty-five men in this Convention, who had not spoken at all upon any subject. Now, what he proposed was this : that those forty-five gentlemen who had consumed the time of the House for the last six weeks, should, if from no other motives than civility, yield the floor for the next six weeks, to those who had not spoken at all. He was himself opposed to *monopolies*, and he supposed from what gentlemen said, that all true democrats in this House were consequently opposed to them ; for the members were all democrats, *more or less*. He said if he could make this arrangement, he would go security that, in the six weeks prayed for, all the amendments to the Constitution would be completed. And he would further guarantee, that those amendments, when completed, would not differ in one single item from those that would finally be submitted, if we discussed and debated the matter for six months. Sir, said he, the gentlemen are mistaken : the fault is not in short sessions ; it is in a disease of the *brain* which pervades this body—no, sir, not the brain—there is very little of that element exercised in a large portion of the proceedings of this House. What should he call it ? A disease of the *tongue* :—it was that overweening thirst for talking—making speeches—these *awful* two and three hour speeches, which were delivered one upon the top of another, about every thing, and nothing. The Hon JAMES BUCHANAN—politics and political characters—*it was these things* that retarded the business proper of the Convention. He hoped gentlemen would unite with him in bringing about this reform. He agreed fully with the able and experienced gentleman from Indiana, that if there was more talking out of doors, and less in, we would get along a great deal better. He liked this sentiment ; it was the voice of experience and truth. He wanted to separate the speech-makers from the working men, and if he could succeed in his arrangement, the amendments to the Constitution should be made out and agreed upon by one portion of the Convention, while another portion was making speeches about them, or something else.

Mr. Cox hoped the postponement would take place, if for no other reason than that the members of the Convention might escape getting into

a difficulty with the gentleman from Bucks, (Mr. M'DOWELL) who had the other day informed us of his pugnacious propensities. It was possible, if the subject was postponed, that the gentleman might make an arrangement by which he would become moderator in the Convention. If, however, he could not effect that object, Mr. C. could not permit him to set himself up as a dictator. He would, also desire the subject to be postponed, so that he might consult the gentleman from Bucks, as to the propriety of hereafter investigating the democracy—as democracy appeared to be the order of the day—of JAMES BUCHANAN. As it was his intention to prove that Mr. BUCHANAN did make use of the expression which he had attributed to him, he wished to consult the gentleman from Bucks on the subject of introducing it.

Mr. SMYTH, of Centre, thought it would be the better plan to sit three or four hours in the forenoon and then take a recess until four o'clock. This, he considered, would be more conducive to health than sitting here for five or six hours without adjourning.

Mr. DARLINGTON said if he had known that in pressing the afternoon session, yesterday, he would have imposed on his friend from the county of Philadelphia (Mr. BROWN) the duty of sleeping at his post; he knew not what influence it might have had upon his course.

Mr. KERR hoped that the motion to postpone the resolution now before the Convention would not be agreed to. When it was before the Convention a few days ago the gentleman from Indiana (Mr. CLARKE) as well as other gentlemen, gave their reasons at large against afternoon sessions; and the gentleman from the county of Philadelphia, (Mr. BROWN) who is also opposed to meeting in the afternoon, now calls upon those who have had experience in legislation to say, whether it is not altogether inexpedient and improper to pass this resolution. Mr. K. had had some little experience in legislation, but not so much, he admitted, as the gentleman from Indiana, (Mr. CLARKE.) That gentleman had, the other day, urged the impropriety of meeting in the afternoon, because members after partaking of a hearty dinner, were unfit for work, and the gentleman might have added, as he (Mr. K.) had frequently heard done in the Legislature—especially if members indulge in a pretty liberal portion of wine, or other stimulants. He trusted, however, that the gentleman had omitted this under the impression that the day had gone by when such a reason would be applicable, especially to such a body as this. He very much doubted, whether if that gentleman had a number of persons in his employ, and they should offer the same reason for spending their afternoons in idleness or recreation, and still demand full pay, he would consider it a very good one. Other reasons were offered by other gentlemen; some say members need time for reading and reflection, in order to be prepared for the duties of the ensuing day, and gentlemen had called upon us to recollect that we were now in the valley of the Susquehanna; that warm weather was coming, and that it was very important that we should take care of our health. Now, these and others which have been offered are nothing more than the old stereotyped reasons which he had again and again heard repeated in the Legislature of this State against afternoon sessions. But, he asked to be excused for remaining an unbeliever in their correctness. He knew, in fact, that members of the Legislature were usually influenced by them to postpone afternoon sessions until spring begins to approach, and they see

some indications that warm weather is coming; and then at the time when there is most danger of impairing their health by confinement they find they must either leave undone the work they were sent to perform, or submit not only to afternoon but to night sessions also. He had always considered the procrastination of business as a great error in our Legislature, and he feared there was danger in this Convention falling into the same error. We have now been in session four weeks and it may well be asked, how much of the work we were sent here to perform has been done? And who are in fault that no more has been done? He regretted that attempts had been made in this Hall, as well as out of it, to charge this delay of business upon political opponents or partisans; and even the public prints are now endeavoring to lay this procrastination at the door of the party to which he belonged. In one of the papers printed in this place it has repeatedly been asserted, that the democratic party in the Convention are anxiously urging on the business for which we have been sent here, and that they are opposed to all extra or unnecessary expenses, while the Whig and Anti Masonic parties are just as zealously endeavoring to retard its progress, and prevent an early adjournment, for the purpose of increasing the expenses of the State, and the editor of that paper had the impudence to lay those papers containing this foul slander upon the body, on our desks. Sir, if the publishing of falsehood against any person or against any body of men, be slander, then has every member of this Convention been slandered.

Mr. FULLER was opposed to the motion to postpone, and in favor of the resolution of the gentleman from Lancaster (Mr. HIESTER) as modified, so as to adjourn at one o'clock and meet again at four, giving a recess of three hours which he thought was sufficient. The loss of health had been urged against this resolution, but he would ask any gentleman if six hours in the day was too long to be employed in session? He thought not, and the people of the State would not say that it was too much of their time; and he believed by dividing the time as was proposed, it would give gentlemen the opportunity of taking exercise sufficient to preserve health. But the main objection urged against it was, that members would not attend to their duty so far as to make the afternoon a profitable session. He was not willing to admit, however, that this very respectable body of men would not attend to the business assigned to them, both to deliberate and decide profitably in the afternoon session as well as at any other period of the day. With regard to the remarks of the gentleman from Washington, (Mr. KERR) he would merely remark, that he concurred with the gentleman in saying that we had done but little business for the time we have been in session. But he could not go with that gentleman in saying that an Editor in Harrisburg had slandered this Convention by placing on our desks a paper, which stated that a disposition had been manifested by a portion of this Convention to retard the progress of business in it. He would ask any gentleman in this body, or elsewhere, whether there had not been sufficient grounds for such an opinion or inference? Surely there had. When gentlemen would recollect that twelve able and talented speeches, each from one to two hours long, had been made on a clause of the fourth article of the Constitution, and all on one side, and that successively, too, and on a question where there was but little difference of opinion, as stated from all quarters of the House, there was some reason



for the editors thinking there was a party disposed to delay the business of the Convention. Notwithstanding the unanimity of opinion on this clause, still the vote could not be taken on the question for a long time—and why it was so, was left to that editor and the whole community to judge.

Mr. KERR said that the gentleman from Fayette (Mr. FULLER) had remarked that much time was uselessly spent, and, therefore, the editor referred to, did not deserve censure for publishing what he did. Mr. K. admitted that much time had been spent uselessly, but what he complained of was, that this waste of time had been exclusively charged upon the party to which he had the honor to belong, while it was said that the democratic party was endeavoring to urge on the business. From whom came those long speeches, applicable to almost any other subject than that immediately before the Convention, and to which we have been listening for ten or twelve days past? The members from Philadelphia county have had their full share and a little more, and it is well known that those gentlemen are democratic enough, he meant of the new order of patent democrats. He, himself, claimed to be a democrat—a democrat of the JEFFERSON school—a democrat of '98, at which period, and for many years afterwards, the term democrat meant something more and something different from what it does at this day. He would ask of gentlemen when were we to get through with the business before the Convention? Are we to sit here through the months of July and August? It appeared to him that if we were to use a little more industry and pay more attention to the questions actually before the Convention, we should be enabled to get through with our business and return home, at least, before the month of August arrives. He was also of opinion that adjourning at one o'clock and meeting again at three or four in the afternoon, would be fully as conducive to health, if not more so, than the manner in which our afternoons are usually spent. He, therefore, hoped that the motion to postpone would not be agreed to, and that the resolution would be adopted.

Mr. PURVIANCE had submitted a proposition of a similar nature with the one proposed this morning, some days ago; but what he had heard from gentleman from Bucks and the gentleman from Philadelphia to-day, had induced him to change his opinion. He thought when a member rose in his place, and stated that he was anxious to attend the sittings of the body, but said his health would not permit him to attend if they held afternoon sessions, he ought to be indulged by the Convention; especially as this Convention was such a one as may, perhaps, never again be called in Pennsylvania. He would mention further, in reference to what had been said by the gentleman from Washington, (Mr. KERR) that when he took up the paper alluded to a few days since, he was under a similar influence with the gentleman, but he consoled himself with the reflection that he was spending this large sum of money in fellowship with the democratic party. He had heard some of his democratic friends complain of the publication, but as they were not disposed to move in the matter, he did not think fit to do it. As to the explanation or apology which the editor had made, Mr. P. did not consider that it was intended for the party to which he belonged, but was intended to white-wash the democratic party, as in all probability, many of the members of that party in this body will be elected to the next Legislature, where there will be an important item of printing in



expectancy by that editor. As to the gentleman from Beaver who was in the habit of calling for the yeas and nays on questions of this kind and had manifested a great desire for afternoon sessions, he could not see, upon an examination of the journals of the Senate, that that gentleman manifested the same desire for afternoon sessions there.

Mr. DICKEY had learned from some years experience in the Legislature that there were a great many men who would give a different vote when the yeas and nays were called, from what they would have done if they had not been called. He was sorry that the call for the yeas and nays had given the gentleman from Butler and the gentleman from Philadelphia so much trouble; he should, however, feel it to be his duty to call them on all such occasions as this. In the Legislature the adoption of a resolution for afternoon sessions was postponed from time to time in the early part of the session, and the consequence was, that they had to hold afternoon and evening sessions towards the close of their labors, and he believed if any gentleman would take the trouble to examine the journal he would find that there was more business done in an afternoon session than in a morning session. He hoped the Convention would sit mornings and afternoons, and that they would apply themselves to the matter of considering the propriety of amending the Constitution, and not enter into discussions as to the democracy of Mr. BUCHANAN or any other man.

Mr. EARLE said the objection his colleague (Mr. RITER) had made to the afternoon sessions was, that the Convention would, in all probability, sit till two o'clock, and then hold an afternoon session. The question now, however, was so modified that he thought it would meet the views of his colleague. He was of opinion that if they were to sit nine hours a day, they would do more business in a day than they did at present in a week. In the British Parliament, they made it a rule to decide many of their questions in a day, which would take the American Congress a month. If we were to sit out a subject in one day, there would not be so much speaking on foreign questions, because gentlemen would not have time to prepare themselves to speak on every subject. As to the business they came here to perform, he presumed every gentleman had made himself conversant with it before he left home. Then, if that was the case, every gentleman would be prepared to speak on the subject of amendments, whenever they came up, and they would not have the time to study out and introduce foreign subjects. He thought that those gentlemen who were anxious to confine the debate to the question under consideration, ought to vote for afternoon sessions.

The question was then taken on the motion to postpone, and decided in the negative,—Yeas 53, Nays, 69—as follows :

YEAS—Messrs. Ayres, Baldwin, Barclay, Barnitz, Bigelow, Brown, of Philadelphia, Butler, Carey, Chauncey, Clarke, of Indiana, Cochran, Cope, Cox, Crain, Cunningham, Donnel, Doran, Dunlop, Farrelly, Fleming, Forward, Gamble, Hamlin, Helfenstein, Hopkinson, Jenks, Konigmacher, Maclay, Martin, M'Dowell, M'Sherry, Meredith, Merrill, Myers, Overfield, Pennypacker, Porter, of Lancaster, Porter, of Northampton, Purviance, Reigart, Read, Riter, Rogers, Seltzer, Shellito, Sill. Stevens, Stickel, Taggart, Weidman, White, Sergeant, *President*—53.

NAYS—Messrs. Agnew, Banks, Barndollar, Bayne, Bell, Bonham, Brown, of Lancaster, Brown, of Northampton, Chambers, Chandler, of Chester, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Clark, of Dauphin, Cleavinger, Cline, Coates, Craig, Crum, Cummin, Curll, Darlington, Darrah, Denny, Dickey, Dickerson, Donagan, Earle, Fry,

Fuller, Gilmore, Harris, Hastings, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Houpt, Hyde, Keim, Kennedy, Kerr, Krebs, Long, Lyons, Magee, Mann, M'Cahen, M'Call, Merkel, Miller, Montgomery, Pollock, Ritter, Royer, Russell, Saeger, Scott, Sellers, Scheets, Smith, Smyth, Snively, Sterigere, Swetland, Todd, Woodward, Young—69.

Mr. DONAGAN moved to amend the resolution by striking out all after the word "Resolved", and inserting, "That the Convention hold afternoon sessions three days in each week, commencing on Monday next, and to be holden on Mondays, Wednesdays, and Fridays, in every week, at four o'clock, until otherwise ordered".

Mr. HIESTER said there was no difference between the amendment and resolution, except in relation to taking a recess at one o'clock. He thought it better to have the hour fixed for taking the recess.

Mr. DONAGAN did not understand the original resolution as providing for two sessions a day, as it only spoke of taking a recess at one o'clock.

The amendment was negatived without a division.

Mr. Cox suggested that it would be better not to have a precise time fixed for taking a recess, as it might so happen that they would be calling the yeas and nays at that time, and it would be inconvenient to break off in the middle of the call.

Mr. STERIGERE apprehended there would be no difficulty in that respect, as there would no doubt be a reasonable construction put upon the resolution. If the call of the yeas and nays should be commenced before one o'clock, they would be gone through with before the Convention adjourned, and all difficulty in that respect would be avoided.

The question was then taken on the resolution, (the yeas and nays having been ordered,) and decided in the affirmative, as follows:

YEAS—Messrs. Agnew, Banks, Brown, of Lancaster, Brown, of Northampton, Chambers, Chandler, of Philadelphia, Clapp, Clarke, of Beaver, Cleavinger, Cline, Craig, Crum, Curll, Darlington, Darrah, Denny, Dickey, Dickerson, Donagan, Earle, Fry, Fuller, Gilmore, Hamlin, Harris, Hayhurst, Henderson, of Allegheny, Henderson, of Dauphin, Hiester, High, Houpt, Hyde, Keim, Kennedy, Kerr, Konigmacher, Krebs, Lyons, Magee, Mann, M'Call, Merkel, Miller, Montgomery, Pollock, Ritter, Royer, Russell, Saeger, Scott, Sellers, Seltzer, Scheetz, Smith, Smyth, Snively, Sterigere, Swetland, Todd, Woodward, Young—65.

NAYS—Messrs. Ayres, Baldwin, Barclay, Barnitz, Bigelow, Brown, of Philadelphia, Butler, Carey, Chandler, of Chester, Chauncey, Clark, of Dauphin, Clarke, of Indiana, Cochran, Cope, Cox, Crain, Cummin, Cunningham, Donnell, Doran, Dunlop, Farrelly, Fleming, Forward, Foulkrod, Gamble, Grenell, Hastings, Helffenstein, Hopkinson, Jenks, Maclay, Martin, M'Cahen, M'Dowell, M'Sherry, Meredith, Merrill, Myers, Overfield, Pennypacker, Porter, of Lancaster, Porter, of Northampton, Purviance, Read, Riter, Rogers, Reigart, Shellito, Sill, Stevens, Stickel, Taggart, Weidman, White, Sergeant, *President*—56.

On motion of Mr. BELL, the following resolution was taken up, considered and adopted, after a few words from Mr. BELL, in which he stated that there are a great many officers of corporations whose duties are not known, and respecting whom some information might be elicited.

*Resolved*, That the Secretary of the Commonwealth be requested to furnish to the Convention a statement, showing the number of officers, exclusive of Judicial officers, Prothonotaries, Registers, Records and Clerks, of the several County Courts, appointed by the Governor; setting forth their several titles, terms of office, compensation, and the places wherein they exercise their offices.

The Convention then resolved itself into committee of the whole, (Mr. PORTER, of Northampton, in the Chair,) on the report of the committee, to whom was referred the first article of the Constitution.

The following section being under consideration :

SECT. 1. The Representatives shall be chosen annually, by the citizens of the city of Philadelphia, and of each county respectively, on the 4th Tuesday of October.

The motion pending, was that of Mr. WOODWARDS, to strike out the word "*fourth*" and insert the word "*second*".

The CHAIR decided that the motion was out of order.

Mr. WOODWARD appealed from this decision: and after a few words from Messrs. READ, STERIGERE, STEVENS, CUNNINGHAM, SERGEANT, and CHAMBERS, he withdrew his appeal.

Mr. DUNLOP moved to amend, by striking out the word "*fourth*" and inserting the word "*third*".

Mr. FARRELLY, of Crawford, said that he was in favor of the amendment reported by the committee. A change in the time of holding the general election, was called for by a large portion of the people of the county, which he had the honor in part to present. And, their wants and wishes were entitled to respect. They were always busily employed on the second Tuesday in October in gathering in their crops, and but few of them were, consequently, able to attend the election. He thought that if it was held two or three weeks later, it would be much more convenient for the people—particularly farmers, who ought to have an opportunity afforded them of attending the polls.

Mr. CLEAVINGER, of Greene, remarked that in his action on this question, he should be governed by what he felt to be due to the farming interest. He cordially approved of the remarks which had fallen from the gentleman from Crawford, in regard to consulting, to a certain extent, at least the convenience of the farmer. The second week in October was a very busy one with the agriculturists in his (Mr. C's.) county, and he knew that it was a very inconvenient time for them to attend the general election. For the professional man and the mechanic, however, the second week in October, was not an inconvenient period. He was, therefore, in favor of changing the time, and he thought that none could be more convenient than that which was embraced in the amendment of the gentleman from Franklin (Mr. DUNLOP). He thought it only fair that the interest of the farmer should be studied, for he believed that it was upon his votes that we were to depend, when our liberties were in danger, to preserve them inviolate.

Mr. WOODWARD, of Luzerne, observed that he was opposed to the amendment, and in favor of the time as it now stands in the Constitution. He felt himself compelled to dissent from the gentleman from Greene, whom he understood to say that none but farmers had any interest in this question. He (Mr. W.) was no farmer, but he represented an interest who had a right to be heard here. The profession to which he belonged had a deep interest in this matter, and every member on this floor had an interest, no matter what his occupation was, and every class of citizens in the Commonwealth had an equal right to have their interest consulted. The second Tuesday of October was the day of election fixed by the Constitution of 1776, and the Convention of 1789-90 did not think proper

to change it. Now as far as his knowledge of public sentiment went, as indicated by public meetings, through the press, and in other ways, no change was called for. On the contrary, the people had become habituated to the second Tuesday in October, and all their political associations were connected with that day. If the farmers, in any particular section of the State, were busily engaged on that day, in other sections they might be more at leisure, and they should be willing to submit to some inconvenience in the exercise of so high a privilege as the right of suffrage.— Now, he believed that they were willing to make the necessary sacrifice in favor of the great mass of the people. In the section of the Commonwealth that he represented, public opinion was against a change in the time of holding the election. But, there was another reason why he should vote against it. He was opposed to all amendments to the Constitution, except those which had been indicated to be the desire of the people of the Commonwealth. He was opposed to change for the sake of change. And, he would ask those gentlemen who pretend to have the subject of reform at heart, whether they would be in favor of putting anything in the Constitution which was not generally called for by the people? He thought that they would go with him in opposing aught that was at all calculated to endanger the Constitution. Now, he thought that the introduction of this amendment would endanger that great instrument.— He regarded it as a void and insignificant innovation. The people, as he had said before, were so long accustomed to meet together on the second Tuesday in October, that the day had acquired a place in their affections and they were not disposed to change it. The framers of the Constitution of 1776 had fixed that day, and the framers, also, of the Constitution of 1789–90 approved of, and reclaimed, it; and he firmly believed that the people of Pennsylvania expected that this Convention would make no change in that respect.

Mr. FLEMING, of Lycoming, said that he was opposed to the amendment of the gentleman from Franklin, (Mr. DUNLOP) and also to the report of the committee, for precisely the very reasons which had been urged in favor of its adoption—the convenience of the farming interests. He would submit an amendment, when it would be in order to do so. In fact he was almost afraid to name the word “order”, for it belonged exclusively to the law makers. They took it upon themselves, and were learned in matters of that sort. It was only that morning that the committee had been treated with a fine specimen of it. There was no doubt, judging from the disposition that was evinced by many gentlemen on that floor to discuss questions of order, and thus to display their knowledge, that, if was not resisted at once, every gentleman would become very learned, at the expense of a great sacrifice of time. For his own part, he cared very little about rules, provided he came speedily to the transaction of the business, for which he was sent here. He was opposed to the amendment, because he believed they could fix upon a day that would suit the people at large better, and that was to strike out the “fourth Monday in October”, and insert the day fixed by law for the choice of electors of President and Vice President of the United States. He regarded the proposition as well worthy the consideration of the committee.

If we can, by postponing the election a few days or weeks, save to the State one half of the labor, time, expense and excitement which always

attend upon an election, it is something worthy of the calm and considerate attention of a body like this. He thought the Convention would have no motive nor wish to keep up the excitement and strife of election, and there was no danger but the editors of the newspapers would tell us how to vote on both questions at once. It would be a great relief to the people if all unnecessary excitement would be allayed. He would propose to fix the day of election on the last Friday of October. According to the law of 1792, the election of electors of President and Vice President must be held within thirty days of the first Wednesday of December. The time he had named would be consistent, and it would be as early as we could fix it under the act of Congress.

Mr. JENKS, of Bucks, said if there was any one amendment of the Constitution which the people of his county desired it was in reference to the time of the election. The time of the general election had been a subject of complaint ever since he could recollect, for it occurred just at the time when the farmer was preparing his ground and sowing his wheat, the consequence of which was that many persons were deprived of the right and the opportunity of exercising the elective franchise. If it was postponed, according to the proposition of the gentleman from Franklin, all could have the opportunity of attending the election. By that time, the corn crop would be secured and the wheat sown. If, however, the day should be postponed too late, it would be inconvenient to the farmers, and, on account of the bad weather usual at that season, aged and infirm persons would be prevented from attending. The time fixed by the committee was too late. He had prepared another proposition taking an intervening day between that and the day fixed by the present Constitution, which he would offer as an amendment, and which, if it succeeded, would, he had no doubt, be very acceptable to the majority of the agricultural people. The day for the election of electors of President and Vice-President was too late for the convenience of very many respectable citizens, and if it was competent for the Legislature, under the Constitution of the United States to fix an earlier day for that election, it ought to be done.

Mr. Cox, of Somerset, entirely agreed, he said, with gentlemen that the time for holding the state election ought to be changed, but it ought not in his opinion, to be fixed in the month of October. He was inclined to agree with the gentleman from Lycoming, (Mr. FLEMING) that it ought to be fixed upon the same day with the election of Presidential electors; and he felt satisfied from what he had heard that there would be a more general turn out then. In October, the farmers were too busy to attend the election. Four or five hundred and even a thousand voters have been detained from the polls, by their business, at an election in a single county, all of whom would turn out on the day of the Presidential election. He had heard many complain that the day of election was too early; and he had no doubt that, at the last election, there would have been polled ten thousand votes more, if it had been fixed on the same day with the election of electors of President and Vice President. It had been objected to fixing so late a day that many aged and infirm persons could not then attend on account of the inclemency of the weather; but he felt convinced that for one vote that would be lost from this cause, five would be gained from the active and laboring classes. But there was not generally much change in



the weather by that time, and this objection therefore was altogether insufficient. This was a question upon which we ought to consult the interests of the agricultural portion of the community. The people of the towns could attend the polls at any time, but the farmers in the month of October, must attend to gathering their crops and sowing their seed.—They would not leave their work to attend the polls, which were often at a distance from them, and it was not to be expected that they should. The day proposed by the gentleman from Franklin would not, he was certain, suit the people of the majority of counties. The day of the Presidential election would be the most convenient in reference to the greater number of the farmers: and there was this advantage in fixing upon that day—that it would save the people of this Commonwealth much expense and commotion to hold the two elections on one day.

Mr. DARLINGTON, of Chester, said it was manifest that a great difference of opinion prevailed as to the time at which the election should be fixed, and no two gentlemen scarcely would agree upon the time, though all were for a change. It was evident that any change must create as much dissatisfaction as there was said to be in regard to the time now fixed by the Constitution. He was opposed himself to any of the propositions that had been offered, and he would give his reasons why, in his opinion, we had better let the time of the election remain as it is. The farming interests ought to be consulted in this matter, without doubt, but it was also incumbent upon us to consult the convenience of those engaged in other pursuits. But the farmers were not so anxious for a change as had been represented. Good farmers in Chester county—and the farmers of Chester were, he said, generally good—could always arrange their business so as to spare a little time for the election; and in good weather—which was of more importance than the particular day—they could attend the election with but a very slight sacrifice of time. In most cases, the election districts were small, and they need not be absent from their farms more than two hours, in order to give their votes. He was unable to perceive that any advantage would be gained by postponing the election to the third Tuesday of October, only one week. There was no great difference between the two days, so far as regarded the convenience of the farmer; for he had always something to do. Some gentlemen were in favor of fixing the meeting of the Legislature in the first week of November, and if this change should be made, then the day of election ought to be fixed earlier instead of later. He was yet to learn any advantage that could be gained to his constituents by the change proposed. In case the time for the meeting of the Legislature should be fixed in November, the interval between the election and the commencement of the session would be too short to enable the members elect to prepare for it. But, if, as many others proposed, the time of meeting should be fixed in January, this would prolong the session to a late day in the spring, to the great inconvenience of the farming members from the south east counties of the State, to whom the first of April was an all important season. In the northern part of the State, where vegetation was about a month later than in the southern part, it would be no inconvenience to prolong the session through the month of April. Whenever the proposition to fix the meeting of the Legislature in January came up he should oppose it. It was urged by the gentleman from Somerset, in favor of deferring the



election till the electoral election in November, that ten thousand more votes would then be polled than on the second Tuesday of October. But he thought it more probable that ten thousand votes less would be polled on that day—for the reason, in part, that the weather is then generally inclement, and will prevent a number of aged persons and invalids from attending the election. If there should be any change—and he was not in favor of any—he hoped a time convenient to all would be chosen; and the earliest day that had been named would, he had no doubt, give the most general satisfaction. The second Tuesday of October was the day fixed for the election as early as the revolution, and it had remained the law of the land ever since. The people were accustomed to it and did not desire it to be changed. An attempt was made in 1790 to change it, but it failed, as he trusted this attempt would also fail. His constituents had never expressed any desire for a change and he was confident that they would not approve it.

Mr. CLARKE, of Indiana, was in favor, he said, of changing the day, and he believed that the members and the people of the west generally were. He had been revolving in his mind what was the proper and the most convenient time, in reference to different parts of the state, but, as yet, he had been able to come to no conclusion as to the particular day. The gentleman from Chester had said that the farmers in his county could spare a few hours for the election at any time, and that, in general, it would not detain him from his business more than two hours. But the election districts in Chester were small. In the west they were not always small. They were frequently so large that it required a man a whole day to get to the polls and home again: and it would require a good deal of patriotism in a farmer to induce him to give up a whole day, at the busy season of the year, to the election. It was conceded by all that a convenient time ought to be fixed, in order, if possible, to bring out all the voters. Every encouragement ought to be held out to the whole people to exercise the elective franchise. As long as all the voters were kept watchful and vigilant of their privileges and rights, it was of no importance what party was up to day and down to-morrow. The country would be safe. All agree in one thing that the second Monday of October was a time inconvenient to the majority of the farmers; and that they would not at that time, generally go to the polls. It was said by the gentleman from Chester that the Convention of 1790 refused to alter the day of election, and that the second Tuesday of October was fixed as early as the revolution. But, the reason of this was that, at that time, the population of the State was chiefly in the eastern and southern counties. In the west there were then few people, and in the north a less number. The time suited very well for the eastern and southern counties where the season was earlier than it was west of the mountains. In his part of the State the second Tuesday was a very busy time with the farmers. He was in favor of the third or fourth Tuesday of October. His objection to fixing upon the same day with that fixed for the Presidential election was that the election of President took place only once in four years, so as to render the object of little importance in regard to economy of time and expense, and that it was held too late in the season for the convenience of the public. At that time, the farmers in the west husk their corn—though he had observed in York county that the corn there was always in crib before the holidays;

but it was not so in the west. If the vote of the farmers could be got upon this question, he would abide by their decision. He was prepared to go for the third or fourth Tuesday of October, but not beyond that time.

Mr. COX remarked that the electoral election, last year, was held on the fourth day of November. If the fourth Tuesday of October were agreed upon for the State election, it might bring the two elections too near each other—leaving an interval between them of only four days, which would be too short for the public convenience, and prevent a full vote at the latter election, or at either.

Mr. SMYTH, of Centre, being, he said, the representative of a county where the season was not so early as it was in Chester, and the other south-eastern counties—would give the reasons why he would not consent to an earlier day, than had been proposed by the committee. In the part of the country where he lived, the farmers were in the height of seeding on the second Tuesday of October: after that time the buckwheat season and the gathering and securing of the corn commenced; and, in the interval, there was time to attend the election. In the lower counties the spring and the harvest were two weeks earlier than where he lived, in the vicinity of the mountains; and the same was the case with the fall. Gentlemen ought to make some allowance for the convenience of the people of the cold regions of the west and north: our counties and townships are large, and so are our election districts: and frequently we have to go ten or twelve miles, and over rough roads, to the polls. Those who lived in the warmer climate of the south and east, should consult the interests and convenience of their brethren in the north and west, in deciding upon this matter.

Mr. HIESLER said it was the complaint of all the farmers that the second Tuesday of October was a very inconvenient day for them; and though, in some parts of the State, they might be patriotic enough to leave their work, for a day, or half a day, and go to the election; yet it was not always the case with those in his vicinity. Of late years the farmers had not finished seeding their wheat at the time of the election; and, as the buckwheat season commenced immediately after, the second Tuesday of October was perhaps the most busy time of the whole year for the farmers. He was in favor of fixing upon the same day for the State and Presidential elections, as had been proposed by the gentleman from Lycoming, (Mr. FLEMING) who had very justly remarked that it would save the State much expense, trouble, and excitement. He had also observed that, as the two elections came so near together, the farmers did not always attend both. We should have a fuller vote if both elections were held on the same day. He hoped the amendment of the gentleman from Franklin would not prevail, because the third Tuesday was too early for the farmers who, at that time, had not finished seeding. It was true that they always had enough to do; but certain things, such as seeding and securing crops, could not be postponed. Harvesting the buckwheat could not be delayed, though the gathering of the corn might be.

Mr. AGNEW, of Beaver, remarked that, though this question did not call for speeches, every one ought to give his views upon it. The question principally concerned the farmers, for they composed the great majority of the voters, and they were entitled, as a class, to the consideration of this body. They embraced as much honesty and intelligence as any

other class of citizens in the State, and their opinions and wishes, in this matter, ought to influence the decision of the question. Nine tenths of the people of his county were, he believed, in favor of postponing the day of the election; and the time most convenient for them, was about the middle of October, when the seeding and buckwheat harvest were finished. The election ought to take place between the 15th and 21st, for just about that time the farmers relax a little in their labors, before their winter work begins. It was a common remark now that a good buckwheat day was a bad day for the election; and a rainy day was favorable to the election: a large number of voters were now detained from the polls by the necessity of attending to their harvest at that time; and it was certainly an object to afford to every citizen an opportunity to exercise the right of suffrage. He would not agree with the gentleman from Chester, and others, that we must pursue the old practice of holding the election on the second Tuesday, because the people had become accustomed to it. The prejudices of the people of the northern and western counties were not so firmly fixed that they would not see the difference between the second and the third Tuesday, however it might be with the people of the southern and eastern counties. He was opposed to holding the State and Presidential elections on the same day, because he was averse to mingling the disputes of the State and Federal Governments. We have enough of excitement at the elections already, and the course proposed, in his opinion, would tend to increase it. The time of holding the electoral election was a subject of legislation; and a great deal had been said about altering the time and the mode of choosing electors, so as to render them uniform throughout the United States. Why, then, in making a lasting and a fundamental law, should we found a provision upon a basis which was subject to be changed at any time? Another reason which had been urged against the proposition of the gentleman from Lycoming, was the inclemency of the weather on the first of November; and this was an objection which was entitled to some weight.

Mr. CURLL hoped, he said, that the gentleman from Franklin would withdraw his amendment, in order to afford an opportunity to the gentleman from Lycoming to offer his proposition.

Mr. STREVS offered as an amendment to the amendment, the following: strike out the third Tuesday of October, and insert

“Second Monday and Tuesday of November, at which time the Electors of President and Vice President shall be chosen, unless otherwise ordered by the Legislature—and none of the tickets shall be counted until the polls have been closed on the last day of the election—and the polls shall close at six o'clock on each day”.

The committee then rose, reported progress, and obtained leave to sit again to-morrow.



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